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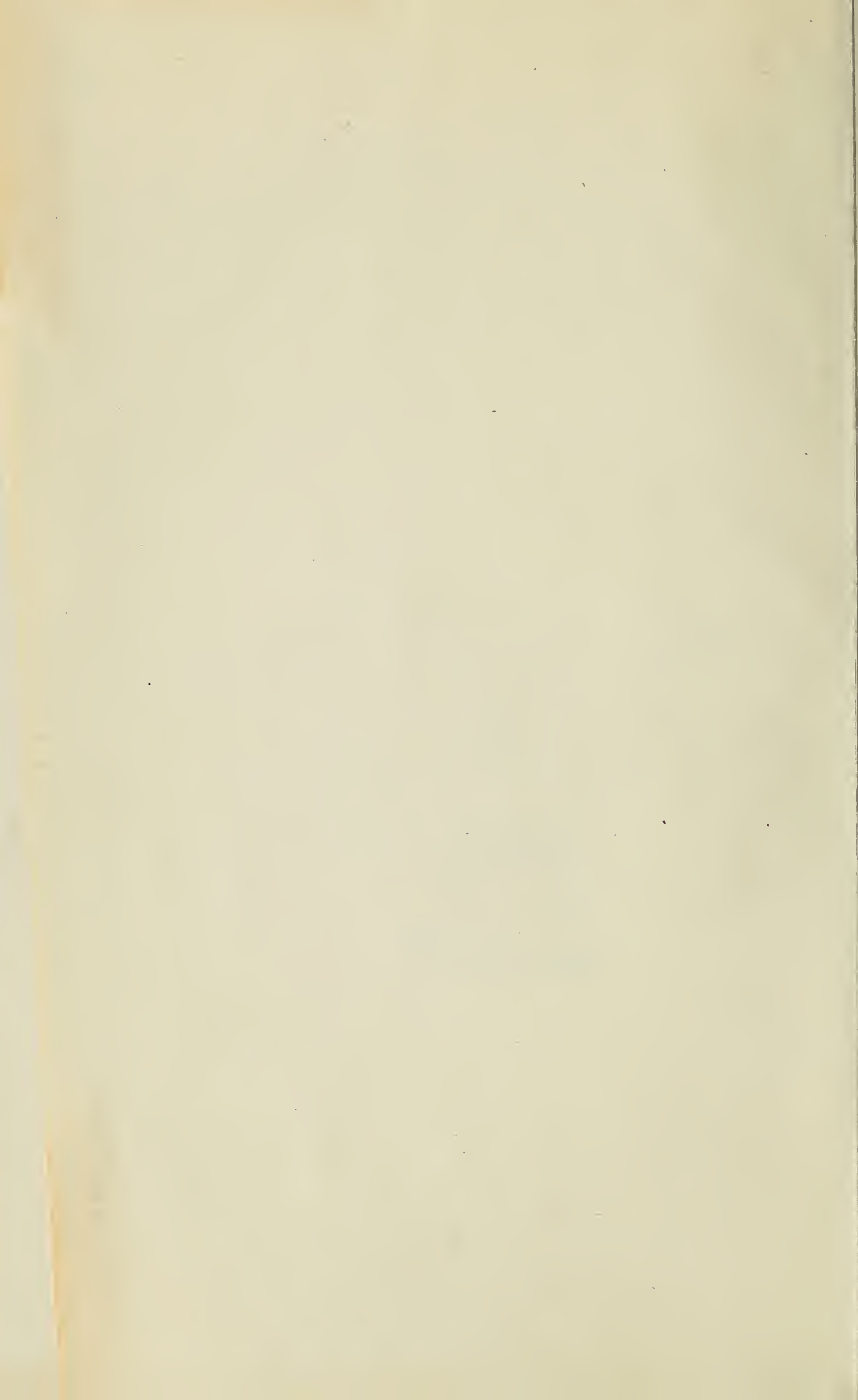
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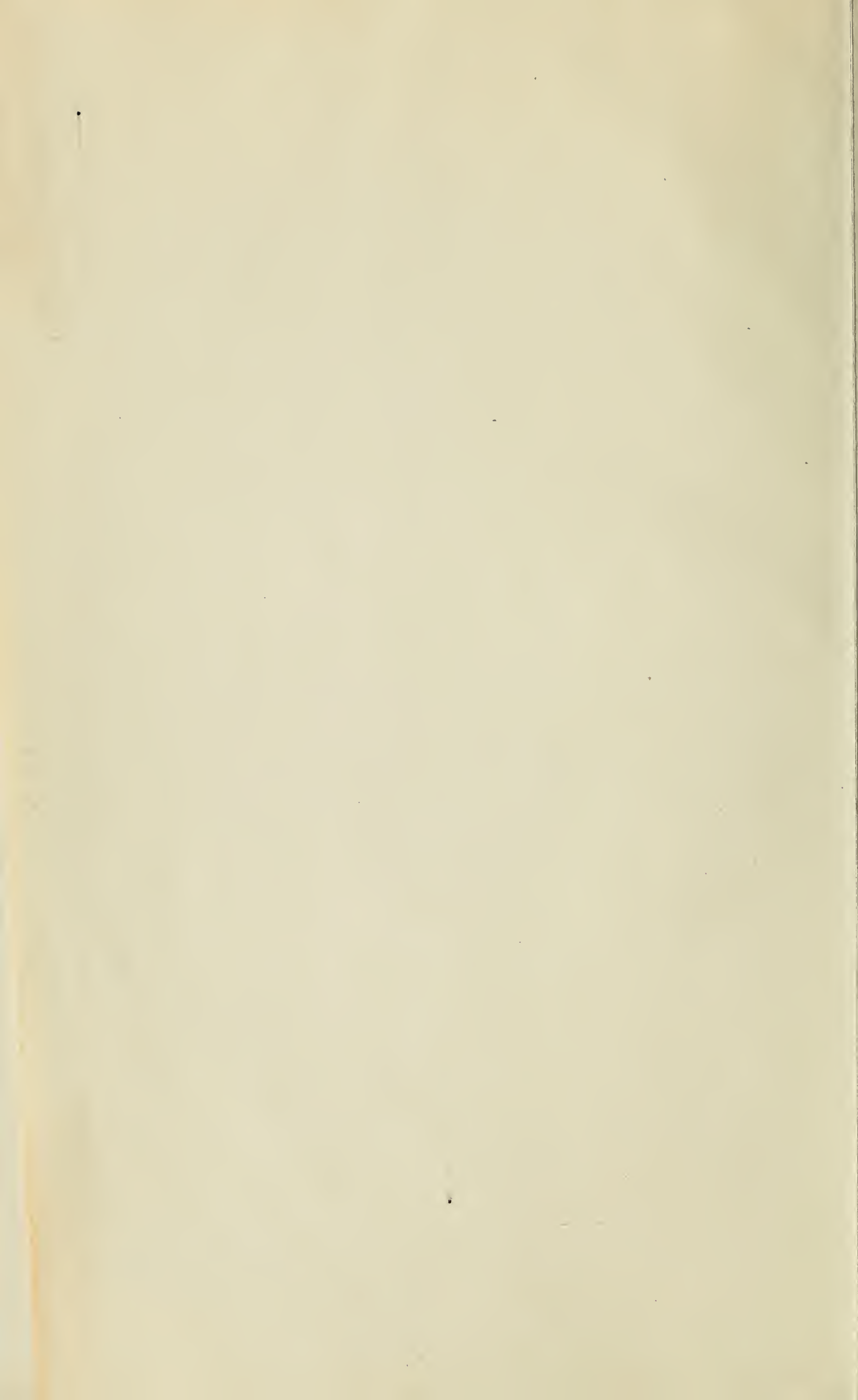
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STATE OF IDAHO
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GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED AT THE

FIFTH SESSION

OF

THE STATE LEGISLATURE.

1899.

GEO. J. LEWIS, PUBLISHER,
BOISE, IDAHO.

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GENERAL LAWS

OF THE

STATE OF IDAHO.

H. B. NO. 4.

AN ACT

TO PROVIDE FOR FIXING THE TERMS OF THE DISTRICT COURTS OF THE SEVERAL DISTRICTS OF THE STATE OF IDAHO, AND TO ADD THE SECTIONS OF THIS ACT TO CHAPTER THREE OF TITLE ONE OF THE CODE OF CIVIL PROCEDURE OF IDAHO AS SECTIONS 3834 AND 3835.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 3834. The judge of the district court of each of the judicial districts of the State must, annually, fix the time for holding the district court in the several counties of his district by an order filed and entered by the clerk in each county of his district, and said order must be published two consecutive weeks in a newspaper published in his district.

SEC. 2. Section 3835. A special term of the district court may be held in any county, by an order of the judge of the district fixing the time of holding the same, and such order must be published for two consecutive weeks in some newspaper printed in the county in which the special term is to be held, and in case no newspaper is printed in the county, then in some newspaper printed in the state nearest to the county in which said special term is to be held.

The terms of court herein mentioned shall be held at the county seat of the respective counties.

SEC. 3. Whereas, a large amount of civil and criminal business is now pending in the several district courts of the State of Idaho, and there is no provision of law now existing whereby the said courts may be convened; therefore, an emergency exists requiring this act to be in force immediately upon its approval by the Governor.

SEC. 4. This Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 5.

AN ACT

FIXING THE NUMBER OF OFFICERS AND EMPLOYEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, TO DEFINE THEIR DUTIES AND ESTABLISH THEIR PAY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The officers and employees of the Senate shall consist of one secretary, one assistant secretary, one engrossing clerk, one assistant engrossing clerk, one enrolling clerk, one assistant enrolling

clerk, one journal clerk, one chaplain, one sergeant-at-arms, one committee clerk, two pages, one doorkeeper and one janitor.

SEC. 2. The officers and employees of the House of Representatives shall consist of one chief clerk, one assistant clerk, one enrolling clerk, one assistant enrolling clerk, one engrossing clerk, one assistant engrossing clerk, one chaplain, one sergeant-at-arms, one doorkeeper, two pages, one committee clerk and one janitor.

SEC. 3. There shall be paid to the several officers and employees named in this act for all services rendered by them under the provisions of this act, the following sums, and no more:

The secretary of the Senate, seven (7) dollars per day.

The assistant secretary of the Senate, six (6) dollars per day.

The chief clerk of the House, seven (7) dollars per day.

The assistant chief clerk of the House, six (6) dollars per day.

All other clerks of the two houses shall receive five (5) dollars per day.

The sergeant-at-arms of the Senate and the sergeant-at-arms of the House, each, six (6) dollars per day.

The doorkeepers of the Senate and House, each, five (5) dollars per day.

The messengers, each, three (3) dollars per day.

The pages, each, three (3) dollars per day.

The janitors, each, four (4) dollars per day.

The journal clerks, each, five (5) dollars per day.

The chaplains, each, two (2) dollars per day.

SEC. 4. It shall be the duty of the secretary of the Senate to attend each day, call the roll, read the journals and bills, copy or to take charge of and superintend all copying necessary to be done for the Senate.

It shall be the duty of the chief clerk of the House to attend each day, to call the roll, read the journal and bills, and to copy or to take charge of and superintend all copying necessary to be done for the House.

It shall be the duty of the assistant secretary of the Senate and the assistant clerk of the House to take charge of all bills, petitions and other papers presented to their respective houses, to file and enter the same in the books provided for that purpose, and perform such other duties as may be directed by the secretary of the Senate and chief clerk of the House.

It shall furthermore be the duty of the secretary of the Senate and the chief clerk of the House to keep a correct record of the proceedings of each day for the purpose of having such proceedings entered in the journal by the journal clerks of their respective houses.

It shall be the duty of the journal clerk of the Senate to record each day's proceedings in the journal, from which they shall be read by the secretary each day of meeting in order that they may be authenticated by the signature of the president.

It shall be the duty of the journal clerk of the House to perform all similar duties for the House which are required to be performed by the journal clerk of the Senate.

It shall be the duty of the sergeant-at-arms of the Senate and the sergeant-at-arms of the House to give a general supervision, under the direction of the presiding officers, of the Senate and House chambers,

with the rooms attached; to attend during the sittings of their respective bodies, execute their commands, together with all such proceedings issued by authority thereof, as shall be directed to them by their presiding officers.

They shall receive no other compensation for their services beyond their per diem, except actual expenses incurred in arrests made by them, and for traveling expenses for themselves or special messenger, which expenses so incurred, shall be paid from the contingent fund of their respective houses: *Provided*, That no messenger shall be employed by any officer of either house unless expressly authorized so to do by the house of which he is an officer.

They shall have power to appoint a deputy each on a vote of their respective houses.

It shall be the duty of the deputy sergeant-at-arms of each house to assist the sergeant-at-arms in the performance of his duties.

It shall be the duty of the doorkeeper of each house to prohibit all persons, except members of the Legislature and State officers, employees and reporters and persons who may on invitation, be entitled to seats, from entering within the bar of the house of which he is doorkeeper, unless upon invitation, and to arrest for contempt all persons outside of the bar or in the gallery found engaged in loud conversation, or otherwise making a noise, to the disturbance of their respective houses.

It shall be the duty of the janitors to keep the furniture of their respective houses in good order, to clean and light lamps and perform such other duties as they may be directed to do, by the president of the Senate or the speaker of the House.

It shall be the duty of the chaplains to open the proceedings in their respective houses with prayer.

SEC. 5. It shall be the duty of the secretary of the Senate and chief clerk of the House, at the close of each session of the Legislature, to mark, label and arrange all bills and papers belonging to the archives of their respective houses, and to deliver the same, together with all the books of both houses, to the Secretary of State, who shall certify to the reception of the same; and upon the production of said certificate to the Auditor of State, the Auditor is authorized and directed to draw his warrant upon the Treasurer in favor of the above named parties for the sum of twenty-five dollars each, and the Treasurer is authorized to pay the same out of any money in the general fund not otherwise appropriated.

SEC. 6. All officers and employees of the Senate and House provided for in this Act shall be elected by the Senate and House, respectively.

SEC. 7. The president of the Senate and the speaker of the House may direct the assistant enrolling clerk and the assistant engrossing clerk to aid in copying bills, messages or other lengthy documents, when they are not otherwise employed.

SEC. 8. Any of the officers and employees mentioned in this Act may be removed by a two-thirds vote of the members of the house in which they are connected for failure to perform the duties imposed upon them by this Act, or for incompetency, or for conduct which shall by each house be deemed improper.

SEC. 9. No additional number of officers or employees of the Senate or House shall be elected or appointed unless on a two-thirds vote.

SEC. 10. The per diem of all officers fixed by this Act shall date from the day on which they shall have been elected and qualified.

SEC. 11. Nothing in this Act shall be construed so as to affect the tenure of office of any attache of this Legislature herein named and appointed prior to the passage of this Act.

SEC. 12. All acts and parts of acts inconsistent with this Act are hereby repealed.

SEC. 13. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO 6.

AN ACT

CREATING A BOARD OF TRUSTEES FOR THE CAPITOL BUILDING AND GROUNDS; AMENDING SEC. 1 OF SEC. 172 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1 of section 172 of the Revised Statutes of Idaho, be and the same is, amended to read: The Governor, Secretary of State and State Treasurer shall constitute a Board of Trustees for the custody and maintenance of the capitol building and grounds.

Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 7.

AN ACT

TO AUTHORIZE THE SUPREME COURT TO FIX THE TIME FOR HOLDING THE TERMS THEREOF; TO APPOINT CERTAIN OFFICERS FOR SAID COURT, AND TO FIX THEIR SALARIES; TO PROVIDE FOR A DEPUTY CLERK OF SAID COURT AT LEWISTON AND AN OFFICE THEREFOR; AND TO REGULATE APPEALS TO THE SUPREME COURT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Supreme Court, or any two of the Judges thereof, may, by an order, fix the times for holding the terms of the Supreme Court, which shall not be changed oftener than once in each year.

SEC. 2. The court shall have power to appoint a crier, bailiff, and a messenger for each term of court, when such officers are necessary.

SEC. 3. Unless by agreement of parties causes in which writs of error or appeals are taken to the Supreme Court of the State of Idaho from the counties of Kootenai, Shoshone, Latah, Nez Perce, and Idaho or counties hereafter created therefrom, shall be heard at Lewiston; and causes in which writs of error or appeals are taken to said Supreme Court, from the counties of Ada, Boise, Owyhee, Elmore, Cassia, Logan, Alturas, Oneida, Bear Lake, Bingham, Lemhi, Washington, Custer and Canyon, or counties hereafter created therefrom, shall be heard at Boise City: *Provided*; That in criminal cases, writs of error, habeas corpus, certiorari and appeals, may on motion of defendant be heard before the Supreme Court either at the city of Lewiston or at Boise City.

SEC. 4. The salaries of the respective officers of said court shall be as follows: The clerk of the court, who may appoint one or more

deputies, two thousand five hundred dollars per annum; which salary shall be the only compensation he shall receive for all services required of him or of any deputy he may appoint.

SEC. 5. The clerk of the Supreme Court shall appoint a deputy clerk resident at the said city of Lewiston, who shall keep his office in said city, and who shall receive as compensation for his services the sum of five hundred dollars per annum.

SEC. 6. The clerk of the Supreme Court shall provide records, stationery, furniture and a safe, for the said office of the clerk of the Supreme Court located at said city of Lewiston as aforesaid at a cost not to exceed one thousand dollars.

The clerk shall, on the first day of January, April, July and October, of each year deliver to the State Auditor a statement, verified by oath, showing the different items of fees received or charged by him, from whom, at what time, and for what services, during the preceding three months, and on the same day he shall pay to the State Treasurer the amount of said fees, who shall give his receipt therefor, and, upon exhibition of said receipt, the Auditor shall draw his warrant upon the treasury for the amount of salary due. Crier and bailiff, four dollars per day, each, and messenger, two dollars per day.

The crier, bailiff and messenger to receive pay only when necessarily engaged in their duties as such officers; said time to be certified to the Auditor by one of the Justices of the Supreme Court, at the close of each term of court.

SEC. 7. Said salaries shall be paid quarterly out of the State Treasury upon warrants issued by the Auditor.

SEC. 8. This Act shall take effect and be in force from and after its approval by the Governor, an emergency existing therefor.

Approved 2nd day of February, 1899.

H. B. NO. 8.

AN ACT

GOVERNING THE STORAGE OF GRAIN, FLOUR, WOOL OR OTHER PRODUCE, WHEN RECEIVED FOR STORING, SHIPPING, GRINDING OR MANUFACTURING.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be the duty of every person keeping, controlling, managing or operating, as owner or agent or superintendent of any company or corporation, any warehouse, commission house, forwarding house, mill, wharf or other place where grain, flour, wool or other product is stored, to deliver to the owner of such grain, flour, wool, or other product a warehouse receipt therefor, which receipt shall bear the date of its issuance, and shall state from whom received, the number of sacks (if sacked), the number of bushels or pounds, the condition or quality of the same, and the terms and conditions upon which it is stored.

SEC. 2. No person shall issue any receipt or other vouchers as provided for in section 1 for any grain, flour, wool or other produce not actually in store at the time of issuing such receipt, or issue any receipt in any respect fraudulent in its character, either as to its date or the quantity, quality or grade of such property, or duplicate or issue a second receipt for the same while any former receipt is outstanding for the same property or any part thereof, without writing across the face of the same the word duplicate.

SEC. 3. No person operating any warehouse, commission house, forwarding house, mill, wharf, or other place where grain, flour, wool or other product or commodity is stored, shall mix any grain, flour, wool or other product or commodity of different grades together (or different qualities of the same grade), or deliver one grade for another, or in any way tamper with the same while in his possession or custody, and in no case mix different grades together while in store without the consent of the owner or owners thereof in writing.

SEC. 4. No person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage shall sell, hypothecate, ship, transfer or in any manner remove, or permit to be shipped, transferred or removed beyond his custody and control, any grain, flour, wool or other produce or commodity for which a receipt has been given by him as aforesaid, whether received for storing, shipping, grinding or manufacturing or other purposes, without the written assent of the holder of the receipt.

SEC. 5. All checks or receipts given by any person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage for grain, flour, wool or other produce or commodity stored or deposited, and all bills of lading and transportation receipts of every kind are hereby declared negotiable, and may be transferred by indorsement of the party to whose order such check or receipt was given or issued, and such indorsement shall be deemed a valid transfer of the commodity represented by such receipt and may be made either in blank or to the order of another.

SEC. 6. On the presentation of the receipt given by any person operating any warehouse, commission house, forwarding house, mill, wharf or any other place of storage for any grain, flour, wool or other produce or commodity, and on payment of all the charges due thereon the owner shall be entitled to the immediate possession of the commodity named in such receipt; and it shall be the duty of such warehouseman, wharfinger, millman or other bailee to deliver such commodity to the owner of such receipt.

SEC. 7. Any person who shall violate any of the provisions of this Act shall be guilty of a felony, and, upon conviction thereof, shall be fined in any sum not exceeding five thousand dollars, or be imprisoned in the penitentiary of this State not exceeding five years, or both; and in case of a corporation the person acting for such corporation shall be liable for a like punishment upon indictment and conviction. And all and every person or persons aggrieved by a violation of this Act may have and maintain an action at law against the person or persons, corporation or corporations, violating any of the provisions of this Act, to recover all damages, immediate or consequential, which he or they may have sustained by reason of such violation, before any court of competent jurisdiction, whether such person shall have been convicted under this Act or not.

SEC. 8. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 9.

AN ACT

TO PROHIBIT THE APPOINTMENT AND IMPORTATION OF NON-RESIDENTS, EXCEPT THE UNITED STATES AUTHORITIES, AS PEACE OFFICERS, AND TO PROHIBIT THE UNLAWFUL EXERCISE OF THE AUTHORITY OF SUCH OFFICERS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Governor, the sheriff of any county, any United States marshal or deputy United States marshal, mayor of a city or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen or other peace officers in this State to preserve the public peace and prevent or quell public disturbance, shall not hereafter appoint as such special deputy sheriff, special constable, marshal, policeman or other peace officer any person who is not a citizen of the State of Idaho.

SEC. 2. That any person or persons who shall in this State unlawfully exercise or attempt to exercise the functions of, or hold himself or themselves out to any one as, a deputy sheriff, marshal, policeman, constable or peace officer, or any person, whether acting in his own behalf or as an officer of the law, or as the authorized or unauthorized agent or representative of another, or of any association, corporation or company, who shall bring or cause to be brought, or aid in bringing into this State any armed or unarmed police force or detective agency or force, or any armed or unarmed body of men for the suppression of domestic violence shall be guilty of a felony, and, on conviction thereof, shall be punished by imprisonment in the State prison for not less than two (2) years and not more than five (5) years: *Provided*, That the Legislature or the Executive, when the Legislature cannot be convened, may call upon the lawfully constituted authorities of the United States for protection against invasion and domestic violence, as provided in section four (4), article four (4), of the Constitution of the United States.

SEC. 3. Any person, officer, company, association or corporation who shall knowingly bring, or cause to be brought, or aid in bringing, into this State any armed or unarmed police force, detective agency or force, or armed or unarmed body of men for the suppression of domestic violence shall be liable in a civil action to any person for any injury to person or property through the action or as the result of the coming or bringing into the State of such body of men, or any of them, whether acting together or separately in carrying out the purpose for which they were brought or came into the State.

SEC. 4. All acts and parts of acts inconsistent with this Act are hereby repealed: *Provided*, That nothing contained in this Act shall be construed to repeal by implication or otherwise any of the provisions of chapter IV, of title I, of part II of the Penal Code of the State.

SEC. 5. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 10.

AN ACT

DECLARING THE ASSENT OF THE LEGISLATURE OF THE STATE OF IDAHO TO ALL THE PROVISIONS OF AN ACT OF CONGRESS, APPROVED JULY 2, 1862, ENTITLED, "AN ACT DONATING PUBLIC LANDS TO THE SEVERAL STATES WHICH MAY PROVIDE COLLEGES FOR THE BENEFIT OF AGRICULTURE AND MECHANIC ARTS," AND THE ACTS AMENDATORY AND SUPPLEMENTARY THERETO; AND ALSO AN ACT APPROVED MARCH 2, 1887, ENTITLED "AN

ACT TO ESTABLISH AGRICULTURAL EXPERIMENTAL STATIONS IN CONNECTION WITH THE COLLEGES ESTABLISHED IN THE SEVERAL STATES UNDER THE PROVISIONS OF AN ACT APPROVED JULY 2, 1862, AND OF THE ACTS SUPPLEMENTAL THERETO," AND THE ACTS AMENDATORY THEREOF AND SUPPLEMENTARY THERETO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the assent of the Legislature of the State of Idaho is hereby given to all the provisions of an act of Congress, approved July 2d, 1862, entitled, "An act donating public lands to the several states which may provide colleges for the benefit of agriculture and the mechanic arts," and the acts amendatory thereof and supplementary thereto; and, also, an act approved March 2d, 1887, entitled "An act to establish agricultural experimental stations in connection with the colleges established in the several states under the provisions of an act approved July 2d, 1862, and the acts supplemental thereto," and the acts amendatory thereof and supplementary thereto.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 11.

AN ACT

AUTHORIZING RAILROAD COMPANIES TO TAKE, ACQUIRE, PURCHASE, SELL, OR GUARANTEE THE PAYMENT OF THE BONDS AND OTHER SECURITIES OF OTHER RAILROAD COMPANIES.

Be it enacted by the Legislature of the State of Idaho:

That section twenty-six hundred and eighty-six (2686) be and the same is hereby added to the Revised Statutes of Idaho, and shall read as follows:

Section 2686. Any railroad corporation, whether chartered by, or organized under, the laws of this State or of the Territory of Idaho, or of the United States, or of any other state or territory, may take, purchase, hold, sell, and disposed of, or guarantee the payment of, the bonds and securities of any other railroad corporation whose line of railroad is continuous of, or by lease, traffic contract, or otherwise connected with, its own line.

Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 2nd day of February, 1899.

H. B. NO. 12.

AN ACT

TO PRESCRIBE SESSIONS OF THE BOARD OF PARDONS, THE MANNER IN WHICH APPLICATIONS FOR PARDON SHALL BE MADE, AND TO REGULATE THE PROCEEDINGS THEREON; AND FOR THE RELEASE OF CERTAIN PRISONERS ON PAROLE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Board of Pardons established by section 7, of article IV, of the Constitution of the State of Idaho, shall meet at the Capitol on the first Wednesday of January, April, July and October of each year.

SEC. 2. The Governor shall preside at all meetings, and the Secretary of State shall be secretary, and shall keep a full and detailed record of the proceedings of the Board.

SEC. 3. Applications for pardons, commutations and remittances shall be made to the Board by written or printed petition, giving a full history of the offense alleged to have been committed, and the legal

proceedings had thereon, together with the reasons for clemency, and proof that due publication, as hereinafter provided, has been made in some newspaper of general circulation in the county wherein the alleged offense was committed, and that a copy of said notice has been served on the district judge, district attorney, and chairman of the board of county commissioners of the county wherein the alleged offense was committed or conviction had.

SEC. 4. It shall be the duty of the Board, when applications for pardons, commutations, and remittances are duly presented to them, to carefully consider them; and for this end they may make such examination outside the application and accompanying documents as they see fit, and shall, if action favorable to the applicant be decided upon, issue to the applicant a certificate of their action, signed by the chairman and countersigned by the secretary of the Board, and also notify the custodian of the body of the applicant, if he be in custody, of their action.

SEC. 5. Every person having taken a lawful oath or affirmation in an application to the Board, or on the hearing thereof, who shall swear or affirm willfully, corruptly and falsely in any matter material to the issue or point in question, or shall suborn any other person to swear or affirm as aforesaid, shall be deemed guilty of perjury or subordination of perjury (as the case may be), and, upon conviction thereof, shall be punished as by law provided for such crime.

SEC. 6. All expenses attending the application for a pardon, commutation or remittance, and the proceedings thereon, shall be borne by the applicant, unless for good cause shown the Board shall otherwise direct.

SEC. 7. Upon the receipt of the certificate mentioned in section four (4) of this Act, it shall be the duty of the said custodian forthwith to discharge from custody the person to whom the pardon has been granted.

SEC. 8. Upon the remission of a fine or penalty by the Board it shall be the duty of the secretary of the Board forthwith to certify the same to the clerk of the court where said fine or forfeiture was adjudged, who shall file the same in his office, and said proceedings shall constitute a satisfaction of the judgment.

SEC. 9. Any member of the Board shall have authority to administer an oath or affirmation to any person offering to testify upon the hearing of an application, and may issue subpoenas for witnesses.

SEC. 10. The Governor shall have power to restore to citizenship any person who has served a term of imprisonment in the State penitentiary, and the time of sentence has expired, on good cause shown, upon application duly made to him under the same rules, regulations, and procedure as are provided for applications for pardons.

SEC. 11. The Board shall have power to make all needful rules and regulations for the conduct of its business not inconsistent with this Act or other provisions of law.

SEC. 12. The Board of Pardons of the Idaho State penitentiary shall have authority under such rules and regulations as the said Board may prescribe, to issue a parole to any prisoner except life convicts, who is now or hereafter may be imprisoned in said State penitentiary: *Provided*, That no convict shall be so paroled who is known to have received previous sentence in any prison for a felony: *And provided further*, That no convict who is serving a time sentence shall be paroled until he has re-

ceived at least one-third of the full term for which he was sentenced, not reckoning any good time: *And provided further*, That no convict who is serving life sentence shall be paroled.

SEC. 13. That such convict while on parole shall remain in the legal custody and under control of the Board of Pardons and subject at any time to be taken back within the inclosure of the said State penitentiary, and full power to retake and reimprison any convict so upon parole is hereby conferred upon said Board, whose written order certified by the Warden shall be a sufficient warrant for all prisoners named in it to authorize any sheriff, constable, policeman or other officer, to arrest and return to actual imprisonment any conditionally released or paroled prisoner; and it is hereby made the duty of all officers to execute such orders the same as ordinary criminal process.

SEC. 14. That in considering applications for parole it shall be unlawful for the State Board of Pardons to entertain any petition, receive any written communication, or hear any argument from any attorney or other person not connected with said penitentiary, in favor of a conditional pardon of any prisoner but the said Board may if they deem proper, institute inquiries by correspondence or otherwise, as to the previous history or character of any prisoner; *Provided*, That no prisoner shall be paroled except upon the recommendation of the Warden.

SEC. 15. The said Board is hereby authorized and empowered to establish three grades of prisoners, together with a system of marks, and to prescribe rules to regulate such grades and marks; and no prisoner shall be released on parole unless he shall have been for six months preceding a member of the first grade. Prisoners in the second and third grades may be deprived of such privileges as the said Board may direct.

SEC. 16. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 17. An emergency existing therefor, this Act shall take effect from and after its passage and approval by the Governor.

Approved 2nd day of February, 1899.

H. B. NO. 13.

AN ACT

TO CHANGE THE WORDS "TERRITORY" AND "TERRITORIAL" TO THE WORD "STATE," AND THE WORD "CONTROLLER" TO THE WORD "AUDITOR."

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. In all places where it occurs in the Revised Statutes of Idaho and in the laws passed by the Legislative assembly of the Territory of Idaho at its fifteenth session, the word Territory or Territorial, where the same refers to the Territory of Idaho, is hereby changed to the word State.

SEC. 2. In all places where it occurs in the Revised Statutes of Idaho and in the laws passed by the Legislature of Idaho at its fifteenth session, the word controller, where it applies to the controller of the Territory of Idaho, is hereby changed to the word Auditor.

SEC. 3. This Act shall take effect immediately upon its approval by the Governor, an emergency existing therefor.

Approved 2nd day of February, 1899.

H. B. NO 14.

AN ACT

LIMITING THE ABSENCE OF STATE, DISTRICT AND COUNTY OFFICERS; AMENDING SECTIONS 326 AND 1826 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 326 be amended to read as follows: Section 326. No State or district officer must absent himself from the State or district for more than thirty days, unless upon business of the State, or with the consent of the Governor.

SEC. 2. That section 1826 be amended to read as follows: Section 1826. No county officer must absent himself from the State for more than twenty days unless with the consent of the board of county commissioners.

SEC. 3. All acts or parts of acts inconsistent with this Act are hereby repealed.

SEC. 4. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 15.

AN ACT

TO PROVIDE FOR THE GOVERNMENT AND MAINTENANCE OF THE PENITENTIARY, AND FOR THE CARE AND CUSTODY OF STATE PRISONERS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That there shall be continually maintained, for the care and custody of convicts in Idaho, a penitentiary at Boise City, in Ada County, on the lands connected therewith and set apart and reserved therefor and granted and donated to the State of Idaho by the general government upon its admission into the Union.

SEC. 2. That the Governor, the Secretary of State, and Attorney General be and the same are hereby constituted a Board of State Prison Commissioners of which the Governor shall be chairman, and said Board shall have the control, direction and management of the penitentiary of the State, and it shall be the duty of said Board either by direct expenditure or by contract with a responsible person or persons to provide for the care, maintenance and employment of all inmates confined or that may hereafter be confined in the State penitentiary. *Provided* Said employment shall be within the limits of said penitentiary grounds. If such Board shall provide by contract for the care, maintenance and employment of the inmates of said penitentiary. Authority on behalf of the State is hereby vested with a majority of the members of said Board to make and sign said contract and in such manner as shall in their judgment appear to be for the best interests of the State, to arrange all the necessary details thereof including the cost per diem to the State, the terms and time of payment, and the appointment and compensation of the Warden and employees: *Provided*, That no contract shall be let to perform any labor which will conflict with any existing manufacturing industries in the State.

Said Board shall have the power to make contract with the lowest responsible bidder, and shall have the privilege of rejecting any and all bids and any such contract entered into shall provide that the discipline of the convicts shall be under the control of said Board, and the Warden. And no contract shall be made which shall in any wise abridge or deprive the convicts of any privileges granted by law.

SEC. 3. The officers of the penitentiary shall consist of one Warden, who shall be the principal keeper of the penitentiary; one deputy warden, who shall be the chief turnkey and clerk and bookkeeper of the penitentiary, both of whom shall reside at the penitentiary; one physician, and such number of assistant keepers and guards as the Warden and Board of State Prison Commissioners shall deem requisite.

SEC. 4. The Warden shall be appointed by the Board of State Prison Commissioners. He must execute an official bond in the sum of ten thousand dollars, with at least two good and sufficient sureties, to the full penalty of said bond, to be approved by the Governor, and shall hold his office during the pleasure of the Board.

SEC. 5. The physician shall be appointed by the Board of State Prison Commissioners, and shall hold his office during the pleasure of said Board. The deputy warden, the assistant keepers and the guards shall be appointed by the Warden, with the assent of the Board, and shall hold their offices during the pleasure of the Warden.

SEC. 6. The Board of Prison Commissioners shall meet quarterly and shall inquire into and examine all matters connected with the government, discipline and police of the penitentiary, the punishment and employment of the prisoners confined therein, and they may, from time to time, require reports from the Warden as to any and all of said matters.

SEC. 7. The Board shall have authority to use the labor of the convicts in the erection of a wall around the penitentiary buildings and grounds, and such other improvements and repairs to said buildings and grounds as they may deem proper and necessary, and to perform any other labor in and about the penitentiary or penitentiary grounds or lands.

SEC. 8. They shall inquire into any improper conduct alleged to have been committed by the Warden or any other officer of the penitentiary, and for that purpose the chairman of the Board has power to issue subpoenas to compel the attendance of witnesses and the production of papers and writings before them, in the same manner and with like effect as in case of arbitration.

SEC. 9. The Board may examine any witnesses who appear before them, on oath, to be administered by the chairman of the Board, or, in his absence, by any other member of the Board.

SEC. 10. The Warden and other officers of the penitentiary at all times shall admit the Board, or either of them, into every part of said penitentiary; exhibit to them, or either of them, on demand, all the books, papers, accounts and writings pertaining to the penitentiary or to the business, government, discipline or management thereof, and render them every other facility in their power to enable them to discharge their duties under this Act.

SEC. 11. It shall be the duty of the State Prison Commissioners, in connection with the Warden, to make and adopt such general rules and regulations for the government and discipline of the prison as they may consider expedient, and from time to time to change and amend the same as circumstances may require. In making such rules and regulations they shall, as far as practicable and consistent with the discipline of the prison, adopt such as shall in their judgment best conduce to the reformation of convicts. A printed copy of the rules and regulations shall be furnished to every officer and guard at the time he is appointed, and so

much thereof as relates to the duties and obligations of the convicts shall be hung up in a conspicuous place in each cell and shop.

SEC. 12. The Warden or deputy warden shall keep a daily journal of all proceedings of the penitentiary, in which he shall note all infractions of the rules and regulations of the penitentiary by any officer or guard thereof, and also any infraction of the rules and regulations of the penitentiary by any prisoner, naming him and specifying the offense, and also what punishment (if any) was inflicted, which journal shall be laid before the Board at every stated meeting, and at every special meeting when demanded.

SEC. 13. The Board, on the first Monday of December, annually, shall audit, correct and settle the accounts of the Warden with the penitentiary and the State for the year ending on the last day of November preceding, and make report of the same to the Governor, which report must embrace and exhibit all particulars necessary to give the Governor a full understanding of the fiscal year, and all other matters pertaining to the management of the prison; and they shall, at the same time, furnish an estimate of the probable income and expenses of the penitentiary for the ensuing year.

SEC. 14. It shall be the duty of the Board of State Prison Commissioners to establish rules for the admission of visitors to the penitentiary, and they may prescribe a certain sum, not to exceed twenty-five cents, to be charged each individual admitted for each admission. The Warden shall provide suitable tickets of admission, and keep, or cause to be kept, a record in the daily journal of the number of visitors admitted; and there shall be appropriated, quarterly, out of the fees received from visitors, or from other funds of the library, a sum not less than twenty-five dollars, to be expended in the purchase of books, papers, and periodicals for the use of the prison library.

SEC. 15. There shall be paid to the officers and employees of the penitentiary the following yearly salaries and compensation to-wit: To the Warden, not to exceed the sum of twelve hundred dollars.

To the deputy warden, not to exceed the sum of ten hundred dollars and board and quarters as provided in section 45.

To the physician and assistant keeper and guards such sums as the Board of Prison Commissioners deem proper and just: *Provided* That the Board of Prison Commissioners shall not pay the guards and keepers more than seventy-five dollars per month and board.

SEC. 16. The Warden shall attend constantly at the penitentiary. He shall exercise general supervision over, and give necessary directions to, the keepers and guards; examine whether they have been vigilant in the discharge of their respective duties; examine daily into the health of the prisoners, and take charge of the real and personal estate belonging to or connected with the penitentiary.

SEC. 17. All the transactions and dealings of the prison shall be conducted in the name of the Warden, who shall be capable in law of suing and being sued in all courts and places in all matters concerning the said prison by his name of office, and by that name he is hereby authorized to sue for and recover all sums of money or any property due from any person to any former Warden of said prison, or to the people of the State, on account of said penitentiary.

SEC. 18. No officer or employee of the penitentiary shall be interested directly or indirectly in contracts for furnishing such penitentiary with

provisions, clothing or other articles to be used in any manner by the inmates or for the use of the institution. Nor shall any or either of such officers be concerned in, or interested in any manner in contracts for buildings of any kind connected with the penitentiary, or for materials to be used in any such buildings, or in any contract for the labor of any convict. Nor shall any officer or employee be permitted to receive in any way any perquisites for themselves or families, or any compensation or reward from any contractor or employee or other person. Should any officer or employee violate or willfully or negligently fail to observe the provisions and prohibitions of this section, he shall be at once dismissed from office by the Board of Commissioners; and further, upon conviction of such violation by a court of competent jurisdiction, he shall be fined a sum not exceeding one thousand dollars and not less than one month's pay, and shall forfeit his interest in any and all contracts or rewards which he may have received or agreed to receive in violation of the provisions of this section.

SEC. 19. The Warden must take bills of the quantity and prices of supplies furnished for the prison at the time they are delivered, and shall at once submit same to the deputy warden, who shall compare the bills with the articles delivered and check off same. If the bills are correct, the Warden must certify by signing each bill, and the deputy warden must enter them, with date, in a book kept for that purpose. In like manner bills shall be taken, certified and entered for all services rendered for the prison, including officers, guards and keepers. If any bills be found incorrect, the deputy warden shall omit to enter them, and shall immediately give notice to the Warden, that the error may be corrected.

SEC. 20. The Warden shall, annually, on the last day of November of each year, close his accounts, and on or before the third of December next thereafter render to the State Auditor a full and true account of all moneys received by him and of all moneys expended by him on account of the prison, with sufficient vouchers therefor, which account shall be duly verified by the Warden.

SEC. 21. He shall, annually, on or before the third day of December in each year, make and deliver to the Board of State Prison Commissioners, a report exhibiting a complete and detailed statement of the transactions of the penitentiary during the year preceding, and stating the number of convicts confined therein and all other matters relating to the same and management thereof.

SEC. 22. The general support of the penitentiary, including food, clothing, bedding and all supplies for the use of the prison; including salaries of officers and employees, and all other expenses connected therewith, shall not exceed eighty-five cents per day for each convict: *Provided*, That all expenses for permanent repairs and improvements or the expenses of sheriffs and other officers in bringing prisoners to the penitentiary, and all extraordinary expenses made with the consent and advice of the Board of Commissioners, shall not be included in this limit of expense per capita. All such expenses shall be kept in detail, under a separate head, in the prison books, and shall so appear in all financial reports of the Commissioners and Warden: *Provided*, That no labor of convicts shall be charged to this account.

SEC. 23. If any convict resist the authority of any officer, keeper or guard of the penitentiary, or refuse to obey any lawful command, then such convict shall be at once taken to his cell and his case reported without delay

to the Warden, who may authorize such punishment under the prison rules as will in his opinion fit the case. If any convict threaten personal injury to any officer, keeper or guard, or make such demonstrations as may reasonably lead the officer, keeper or guard to believe his life or the life of any convict in danger, or if any prisoner acts in a manner which may lead the officer, keeper or guard to believe he is attempting to escape, then such officer, keeper or guard may proceed forthwith to use any weapon he may have to enforce obedience, and if in so doing any convict shall be necessarily wounded or killed, the officer or assistants are justified and shall be held guiltless: *Provided*, That no punishment shall ever be inflicted except solitary confinement on bread and water, or by wearing ball and chain attached to one leg.

SEC. 24. It shall be the duty of the physician to attend at all times to the wants of sick convicts, to prescribe medicine and diet for them. When any convict shall claim to be unable to labor by reason of sickness, the Warden shall refer the case at once to the physician, and shall be guided by his opinion. He shall examine the cells of the convicts and all the sanitary arrangements of the prison, the food and clothing of the convicts once a week, and shall make a general report of same at each quarterly meeting of the Board of Commissioners. He shall enter in the daily journal of the prison the names or numbers of all convicts placed under his care, stating the disease with which each is afflicted. He shall also record the death of any convict in said journal, stating name, age, time and cause thereof, and he shall embody a statement relative to these matters in his quarterly report to the Board of Commissioners.

SEC. 25. In case any pestilence or contagious disease breaks out among the convicts in the penitentiary, the Board and Warden may cause such convicts to be removed to some secure and suitable place where such sick shall receive all necessary care and medical attendance.

SEC. 26. The Warden shall receive, safely keep, and subject to the discipline of the penitentiary any criminal convicted of any crime against the United States, and sentenced to confinement therein by any court of the United States sitting within this State, until such sentence is executed, or until such convict is discharged by due course of law; the United States supporting such convicts and paying the expenses of executing such sentence.

SEC. 27. He shall take charge of any property that convicts may have at the time of entering the penitentiary, and if the same is of the value of five dollars or more, may sell the same, with the consent of the convict, and place the proceeds at interest for the benefit of such convict or his representatives when he may leave the penitentiary, keeping a correct account of such property and the proceeds thereof.

SEC. 28. When any convict is discharged from the prison, the Warden shall furnish such convict with a decent suit of clothing (if he is not already provided for) at the expense of the State, and shall pay such convict, from any funds belonging to the penitentiary, a sum not exceeding ten dollars, and shall deliver to said convict any property received from him which has not been disposed of according to law.

SEC. 29. When there are cells sufficient, each prisoner shall be confined in a separate cell.

SEC. 30. The clothing and bedding of the convicts shall be of coarse material, and they shall be supplied with a sufficient quantity of substantial, wholesome food.

SEC. 31. No person shall, without the consent of the Warden, bring into or carry out any writing or any information to or from any convict.

SEC. 32. The following persons shall be allowed to visit the penitentiary during the regular hours prescribed by the Warden for the admission of visitors: State officers, members of the Legislature and regularly ordained ministers of the gospel, for the purpose of holding religious services and ministering to the spiritual wants of the prisoners, but no other person shall go within the walls of the penitentiary without the special permission of the Warden or Board.

SEC. 33. When any convict is delivered to the Warden the officer having such prisoner in charge shall deliver to the Warden a certified copy of the sentence received by such officer from the clerk of the court where such convict was tried, and shall take from the Warden a certificate of the delivery of such convict, and such certified copy of the sentence shall be evidence of the fact therein contained.

SEC. 34. When any convict escapes from the penitentiary the Warden shall use all proper means for the apprehension of such convict. For this purpose the Board of State Prison Commissioners may offer a reward not to exceed five hundred dollars.

SEC. 35. All rewards, and other sums of money to be paid for advertising any convict, shall be approved by the Board of Examiners, and upon such approval the Auditor shall draw his warrant on the State Treasurer.

SEC. 36. No spirituous or fermented liquors shall, under any pretense whatever, be brought into or upon the premises of the prison, except by the direction of the prison physician.

SEC. 37. The State Auditor is authorized and required to draw his warrant on the State Treasury for such sums as the Board of State Prison Commissioners may from time to time direct, for defraying the proper and necessary expenses of the prison.

SEC. 38. The Warden, the deputy warden, the physician, the assistant keepers and guards shall be exempt from military and jury duties while actually employed by the State as such officers.

SEC. 39. Whenever there is a vacancy in the office of Warden, or the Warden is temporarily absent, all the duties of the Warden shall devolve upon and be performed by the deputy warden until the vacancy is filled or the Warden returns, but in no case shall the Warden and deputy warden be absent at the same time.

SEC. 40. All books, accounts, documents, registers and reports shall be deemed public property, and the Warden shall preserve at least one copy of each.

SEC. 41. The Warden shall cause to be kept a record of each and all infractions of the rules by convicts and discipline therefor, with the name of the convict offending and the date and character of each offense, which record shall be placed before the Board of State Prison Commissioners at each regular meeting of the Board.

SEC. 42. The Warden, at the expense of the State, shall be entitled to the use of the building or quarters set apart and designated by the Board of State Prison Commissioners as the Warden's quarters, and shall

be entitled to necessary fuel, lights and food for himself, wife and children, and shall render an itemized account of the expenses chargeable to the Warden's quarters and submit such account to the Board of Prison Commissioners at the regular meetings of the Board, together with his other accounts and reports: *Provided*, That if the Warden does not occupy said building with his family, the same may be occupied by the deputy warden and his family.

SEC. 43. The Warden shall, on the first Wednesday of each month, make a complete detailed report to the Board of State Prison Commissioners, showing the whole number of prisoners confined in said prison on the first day of the preceding month, the number received during the month, the number whose terms expired during the month, the number pardoned during the month, the number escaped and still at large, the number escaped and recaptured, the number died (if any) during the month, and the number in prison on the last day of the month. He shall, also, at the same time, make a detailed statement of all receipts, showing the source from which the same was derived, and all expenditures, with the proper vouchers for each item, the same to be kept on file by the Board and embraced in their annual report to the Governor. All certificates certified to by the Warden on account of the expenditures for care and custody of prisoners shall be certified by at least two members of said Board before the Auditor shall issue his warrant upon the treasury for the payment of the same.

SEC. 44. Every convict imprisoned in the State prison who has no infraction of the rules and regulations of the penitentiary recorded against him, and who performs the duties assigned to him in an orderly and peaceful manner, must be allowed, as a commutation of his sentence, a deduction of one month for the first year, two months for the second year, three months for the third year, four months for the fourth year, five months for the fifth year, and six months in each of the remaining years of said term. But if any convict escapes, or attempts to escape, from any prison, or commits an assault upon his keeper or any foreman, officer or convict, or otherwise endangers life, he forfeits any and all deductions from the time of his sentence to which he may have been entitled before the commission of such offense.

SEC. 45. Whenever a charge of misconduct shall be sustained by the Warden and the Board of Prison Commissioners at their first meeting after said charge or charges shall have been recorded by the Warden or his deputy against a prisoner, he shall lose the deduction of time specified in section 44 of this Act; but he may regain, by continuous good conduct thereafter, a deduction of time not exceeding seventy-five per centum of said time specified in section 44 of this Act, and as much less as the Warden and the Board may certify to, as a suitable reward for good conduct.

SEC. 46. The Governor shall, upon the expiration of the sentence of any convict as commuted in sections 44 and 45 immediately issue his warrant for the discharge of said convict. Said warrant shall in all cases restore the prisoner to civil rights, the same as though a pardon had been issued.

SEC. 47. All acts and parts of acts inconsistent with this Act are hereby repealed.

SEC. 48. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 16.

AN ACT

PROVIDING FOR THE FIXING OF A BOUNTY UPON CERTAIN WILD ANIMALS BY THE BOARDS OF COUNTY COMMISSIONERS; AMENDING SECTION 1760 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section (1760) seventeen hundred and sixty of the Revised Statutes be amended so as to read as follows:

Section 1760. The board of county commissioners of each county shall, upon a petition of one-fourth of the qualified voters who are taxpayers of the county fix and determine the bounty, for the destruction of each coyote, wild-cat, fox, lynx, bear, squirrel, rabbit, gopher, musk-rat, panther, cougar, lion, and nondescript and badger, and to prescribe rules for making proof of such destruction; and obtaining such bounty; *Provided*, That in no case shall the bounty for rabbits, gophers or squirrels be more than five cents for each animal destroyed.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. No. 17.

AN ACT

GRANTING RAILROAD CORPORATIONS THE RIGHT TO BRIDGE NAVIGABLE STREAMS AND WATERS OF THIS STATE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any railroad corporation heretofore duly organized and incorporated under the laws of this State, or of the United States, or any other State or Territory, or which may hereafter be duly incorporated and organized under the laws of this State, or of the United States, or of any other State or Territory, and authorized to do business in this State and to construct and operate railroads therein, shall have, and hereby is given, the right to build and construct, possess and own, bridges across the navigable streams and waters within this State, over or across which the projected line or lines of railway of such railroad, corporation, or either of them, will run: *Provided*, That said bridges are to be constructed in good faith for the purpose of being made a part of the constructed line of said railroad, or a part of any of the line thereof to be constructed and in course of construction, and to be used by such railroad corporation as a part of its line of railroad so constructed, or to be constructed, for the more convenient, expeditious and safe operation thereof: *And provided, further*, That such bridges shall be so constructed as to not interfere with, impede or obstruct the navigation of such stream or navigable waters, and shall comply with and be subject to the Acts of Congress relating to navigable streams, and the rules and regulations of the executive departments.

SEC. 2. This Act shall take effect from and after its passage, an emergency existing therefor.

Approved 2nd day of February, 1899.

H. B. NO. 18

AN ACT

RELATING TO LIQUOR LICENSES; AND AMENDING SECTIONS 4 AND 23 OF AN ACT ENTITLED "AN ACT TO REGULATE THE SALE OF INTOXICATING LIQUORS, APPROVED FEBRUARY 6, 1891 AND ADDING SECTION 23 THERETO."

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 4 of an act to regulate the sale of intoxicating liquors, approved February 6th, 1891, is hereby amended to read as follows:

Sec. 4. The amount to be paid by each applicant for such license shall be the sum of five hundred dollars per year, or a proportionate amount for each fraction of a year, in any city, town, village or hamlet, where, at the last general election next preceding the date of the application for license, the total vote for Governor exceeded one hundred and fifty votes, and three hundred dollars per year in all other cities, towns, villages, or hamlets: *Provided*, That all persons engaged in retailing liquors in connection with a hotel or tavern, where meals and lodgings are furnished and kept in good faith for the entertainment of travelers at any point distant three miles or more outside of the limits of any city, town, village or hamlet, shall pay a license therefor of one hundred dollars per year, or a proportionate amount for each fractional part of a year: And *Provided further*, That no license issued under the provisions of this Act shall be for a less time than three months, and no license shall be granted for a license for a longer period than one year.

SEC. 2. Section 23 of said Act is amended to read as follows:

Section 23. This Act shall take effect and be in force on the first day of July 1895.

All persons selling spirituous, malt or fermented liquors or wines in any quantity not to be drank in, on or about the premises, where sold, shall pay a license of two hundred dollars per year, or a proportionate amount for each fraction of a year.—No license issued under this section shall be for a less time than three months, nor for a longer period than one year. Every person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished therefor as provided in section 12 of this Act.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved 2nd day of February, 1899.

H. B. NO. 19.

AN ACT

TO PROVIDE FOR THE PERFORMANCE OF THE DUTIES OF CERTAIN STATE OFFICERS IN CASE OF THEIR TEMPORARY ABSENCE OR DISABILITY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever for any reason the Secretary of State, State Auditor, Attorney General and Superintendent of Public Instruction are temporarily unable to perform the duties of their respective offices, the Governor may appoint a suitable person to perform such duties temporarily as an acting officer, until the incumbent of the office shall be able to resume the performance of his duties or a vacancy occurs in such office. The Governor shall require such bonds for persons so appointed as may appear to him necessary for the protection of the State, not exceeding the bonds given by the officer in whose stead he acts. Such

acting officer shall be nominated by the incumbent of the office: *Provided*, That when the incumbent is unable or fails to so nominate, the Governor may appoint without such nomination.

SEC. 2. Nothing in this Act contained shall be construed to amend or repeal existing laws relating to filling vacancies in State offices.

SEC. 3. Whereas an emergency exists, therefore this Act shall take effect immediately.

Approved the 2nd day of February, 1899.

H. B. NO. 20.

AN ACT

CEDING TO THE UNITED STATES JURISDICTION OVER CERTAIN LANDS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That pursuant to article one, section eight, paragraph seventeen, of the Constitution of the United States, consent to purchase is hereby given and exclusive jurisdiction ceded to the United States over and with respect to all lands embraced within the military posts and reservations of Fort Sherman and Boise Barracks, together with such other lands in the State as may be now or hereafter acquired and held by the United States for military purposes, either as additions to the said posts or as new military posts or reservations which may be established for the common defense; and, also, all such lands within the State as may be included in the territory of the Yellowstone National Park, reserving, however, to this State a concurrent jurisdiction for the execution, upon said lands, or in the buildings erected thereon, of all process, civil or criminal, lawfully issued by the courts of the State and not incompatible with this cession.

SEC. 2. This Act shall take effect from and after its passage, an emergency existing therefor.

Approved the 2nd day of February, 1899.

H. B. NO. 21.

AN ACT

TO REPEAL SECTIONS FIVE HUNDRED AND THIRTEEN TO FIVE HUNDRED AND TWENTY-FOUR, BOTH INCLUSIVE, OF THE SPECIAL AND LOCAL LAWS RELATING TO ROADS AND HIGHWAYS AND ROAD CONTRACTS IN BOISE COUNTY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That sections five hundred and thirteen, five hundred and fourteen, five hundred and fifteen, five hundred and sixteen, five hundred and seventeen, five hundred and eighteen, five hundred and nineteen, five hundred and twenty, five hundred and twenty-one, five hundred and twenty-two, five hundred and twenty-three and five hundred and twenty-four of the special and local laws of Idaho relating to roads and highways in Boise County are hereby repealed.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 22.

AN ACT

TO DEFINE THE BOUNDARIES OF THE COUNTY OF WASHINGTON.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That all those portions of territory, embraced and included within the following lines, towit: Commencing at a point on Snake river

where the Second Standard parallel, U. S. Survey, intersects the same; thence east along said line to where said line intersects the line dividing Boise and Canyon Counties; thence northerly upon said boundary line to the summit dividing the waters of the Payette and Weiser rivers; thence along said divide in a northerly direction to a point on said divide, known as Bigrock Flat, where the waters flow into Little Salmon; thence in a northeasterly direction on a low divide separating the waters of the Little Salmon and Payette rivers to a point due east of the northern point of Little Salmon Meadows; thence west to the Little Salmon river; thence down the Little Salmon river to a point due east of the point where the section line between sections 6 and 7 of township 22 north, range 1 east, Boise Meridian, intersects said meridian; thence due west to the middle of the main channel of Snake river; thence up said channel to the place of beginning, be, and the same is hereby, organized into a county to be called the County of Washington: *Provided*, That the County of Washington shall, at the sole expense of said Washington County, survey and mark by conspicuous monuments, not more than one mile apart, that portion of the boundary line of Washington County, as defined in this Act, extending from a certain point in the Little Salmon river in a due west course to Snake river.

SEC. 2. An Act entitled "An Act to better define the boundaries of the County of Washington, State of Idaho, amendatory to an Act approved February 20, 1879, entitled 'An Act to organize the County of Washington,' " approved February 11, 1891; and an Act approved February 20, 1879, entitled "An Act to organize the County of Washington," be, and the same are hereby repealed in so far as the same are in conflict with this Act.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 23.

AN ACT

SUPPLEMENTARY TO AN ACT ENTITLED AN ACT TO PROVIDE FOR A WAGON ROAD BETWEEN MT. IDAHO, IN IDAHO COUNTY, AND LITTLE SALMON MEADOWS, IN WASHINGTON COUNTY, APPROVED FEBRUARY 5, 1889.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That out of the surplus moneys remaining in the fund created by the act to which this is supplementary, to be applied to the construction of the wagon road described therein, the further sum of three thousand dollars (\$3,000) is hereby appropriated for the construction of the Salmon river bridge, and expenses incident thereto, in the manner set forth in said act; and the further sum of one thousand dollars (\$1,000) shall be expended by the Commissioners in the manner set forth in the act of which this is supplementary for the completion of the wagon road from Price Valley to Council Valley, in Washington County; and the residue of said appropriation shall be expended by the Commissioners appointed under said act in extending the State road, constructed under said act to which this act is supplementary, from a point upon said road at or near the head of Payette lakes, in Boise County, in a southerly direction through Long Valley, by the most practicable route, to be selected by said Commissioners, into Boise Valley, in Ada County;

and such road, when constructed, shall be subject to the provisions of said act to which this Act is supplementary; but nothing in this Act shall be construed to make any additional appropriation beyond the sum provided for by said original act: *Provided*, That the Commissioners shall view and locate so much of the road as lies in Boise County on or before July 1, 1891; and, *Provided, further*, That the time for the completion of the road provided for in this Act shall be extended to the first of December, 1891.

SEC. 2. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 24.

AN ACT

PROVIDING FOR THE ORGANIZATION, GOVERNMENT, AND DUTIES OF THE BOARD OF EXAMINERS CREATED BY SEC. 18 OF ART. IV OF THE CONSTITUTION.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Board of Examiners created by section 18, of article IV, of the Constitution shall be styled the "State Board of Examiners." The Governor shall be chairman and the Secretary of State shall be secretary of the Board.

SEC. 2. Regular sessions of the Board shall be held on the first and third Tuesdays of every month, and special sessions at any time, if all the members are present.

SEC. 3. It shall be the duty of the Board to examine all claims against the State, except salaries and compensation of officers fixed by law, and except fixed appropriations for principal and interest of the public bonded debt, and except claims against the State already presented to the Board and favorably reported by it to the Legislature for passage. The Board may approve or disapprove any claim or demand against the State, or any item thereof, or may recommend a less amount in payment of the whole, or any item thereof, and a decision of a majority of the members shall stand as the decision of the Board.

SEC. 4. In case the Auditor shall draw a warrant for any claim, or part of a claim, or item thereof, which is disapproved by the Board, he shall be liable upon his official bond for the same if any loss shall accrue to the State therefrom.

SEC. 5. The Board may make such rules and regulations for the conduct of its business as it may deem desirable, not inconsistent with law.

SEC. 6. Whereas an emergency exists therefor, this Act shall be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 25.

AN ACT

FIXING THE QUALIFICATIONS, AND PRESCRIBING THE POWERS AND DUTIES OF COUNTY ATTORNEYS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. No person shall be eligible to the office of county attorney who is not an attorney and counselor at law duly licensed to practice as such in the district courts of the State. No county attorney shall hold any other county or State office during his term of office as county attorney.

SEC. 2. When there is no county attorney for the county or when he is absent from the court, or when he has acted as counsel or attorney for a party accused in relation to the matter of which the accused stands charged, and for which he is to be tried on a criminal charge, or when he is near of kin to the party to be tried on a criminal charge, or when he is unable to attend to his duties, the district court may, by an order entered in its minutes, stating the cause therefor, appoint some suitable person to perform for the time being, or for the trial of such accused person, the duties of such county attorney, and the person so appointed has all the powers of the county attorney, while so acting as such.

SEC. 3. It is the duty of the county attorney: 1. To prosecute or defend all actions, applications or motions, civil or criminal, in the district court of his county in which the people or the State or the county are interested, or a party; and when the place of trial is changed in any such action or proceeding to another county, he must prosecute or defend the same in such other county. 2. To prosecute all criminal actions before the probate and justices' courts of his county when called upon by said courts, and upon the request of magistrates to conduct criminal examinations which may be had before such magistrates, and prosecute or defend all civil actions before the probate and justices' courts of the county, in which the people or the State or the county, is interested or a party. 3. To give advice to the board of county commissioners, and other public officers of his county, when requested in all public matters, in which the people or the State or the county is interested or a party. 4. To attend, when requested by any grand jury for the purpose of examining witnesses before them; to draw bills of indictments, informations, and accusations; to issue subpoenas and other process requiring the attendance of witnesses. 5. On the first Monday of each month to settle with the auditor, and pay over all money collected, or received by him during the preceding month, belonging to the county or State, to the county treasurer and take his receipt therefor, and to file on the first Monday of January in each year, in the office of the auditor of his county, an account verified by his affidavit, of all money received by him during the preceding year, by virtue of his office for fines, forfeitures, penalties or costs, specifying the name of each person from whom he receives the same, the amount received from each, and the cause for which the same was paid. 6. To perform all other duties required by him of any law.

SEC. 4. When any county attorney receives any money for fines, forfeitures, penalties or costs, he must deliver to the person paying the same, duplicate receipts therefor one of which must be filed by such person in the office of the county auditor.

SEC. 5. No county attorney must receive any fee or reward for, or on behalf of any prosecutor, or other individual for services in any prosecution, or business to which it is his official duty to attend or discharge; nor be concerned as attorney or counsel, for either party other than for the State, people or county, in any civil action depending upon the same state of facts, upon which any criminal prosecution commenced, but not determined depends, and no law partner of any county attorney must be engaged in the defense of any suit, action, or proceeding, in which said county attorney appears on behalf of the people, State or county.

SEC. 6. The county attorney is the legal adviser of the board of commissioners; he must attend their meetings when required and must attend and oppose all claims and accounts against the county when he deems them unjust or illegal.

SEC. 7. All the powers conferred upon and duties required of the district attorney by an Act entitled "An Act to provide for prosecuting offences on information, and to dispense with the calling of grand juries except by order of the district judges," approved March 13th, 1891, are hereby conferred upon and required of county attorneys.

SEC. 8. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 26.

AN ACT

TO PROVIDE FOR THE APPOINTMENT AND COMPENSATION OF COUNSEL FOR INDIGENT DEFENDENTS IN CRIMINAL CASES, IN THE DISTRICT COURTS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever upon the trial of a person in the district court, upon an information or indictment, it appears to the satisfaction of the court, that the accused is poor and unable to procure the services of counsel, the court may appoint counsel to conduct the defense of the accused, for which service such counsel must be paid out of the county treasury, upon order of the judge of the court, as follows: In all cases of misdemeanor the sum of ten dollars; in all cases of felony other than murder the sum of twenty-five dollars, and in cases of murder the sum of fifty dollars.

SEC. 2. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 27.

AN ACT

TO PREVENT STALLIONS AND OTHER ANIMALS FROM RUNNING AT LARGE; AMENDING SECTIONS 1240, 1241, 1242 AND 1243 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 1240 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1240. The owner of any stallion over the age of eighteen months must not allow the same to run at large, unless it is of the market cash value of two hundred and fifty dollars, or more, and is at such value assessed.

SEC. 2. Section 1241 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1241. If any stallion of less than two hundred and fifty dollars market cash and assessed value, ridgling, or any unaltered male mule or jackass over the age of eighteen months be found running at large, the owner must be fined for the first offense twenty dollars, and for each subsequent offense not more than one hundred dollars nor less than forty dollars, to be recovered before a justice of the peace in the name of any person who will prosecute for the same, one-half to his own use and the other half to the use of the county school fund.

SEC. 3. Section 1242 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1242. Any person may take up and safely keep any such stallion, mule, ridgling or jackass found running at large or in his enclosures; and, when so found, must give the owner thereof five days' notice that such animal is in his possession; and if, at the expiration of the aforesaid time, the owner neglects to remove such animal and pay all reasonable charges for keeping the same, then the taker-up must notify the sheriff or any constable, whose duty it is to sell such animal at public auction, on the premises where taken up, after first giving five days' notice of such sale; and the proceeds of such sale must be applied, first, to the officer making such sale, which are the same as on execution; second, to the payment of the charges of the taker-up of such animal; and the remainder, if there be any, must be paid to the owner of such animal.

SEC. 4. Section 1243 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 1243. If the owner or claimant of any stallion, ridgling, unaltered male mule or jackass be unknown, the taker-up must give ten days' notice, with the description of the animal or animals, its marks or brands, by posting up at least three written or printed notices in at least three conspicuous places in the county, calling upon the owner to claim the property; and if, at the expiration of the ten days, the owner neglects to remove such animal or animals and pay all costs, then the taker-up shall call on the sheriff or any constable of the county to sell such animal or animals; and after deducting the fees of the officer making such sale and the reasonable charges of the taker-up, the balance if any there be, shall be paid into the county treasury, to be applied to the county school fund.

SEC. 5. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 6. An emergency existing therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 28.

AN ACT

RELATING TO CRIMES AGAINST THE ELECTIVE FRANCHISE, AND IN ADDITION TO TITLE THREE, PART FOUR, OF THE REVISED STATUTES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. No spirituous, malt, vinous or intoxicating liquor shall be sold at retail or given away, nor shall any saloon or bar room, or place where such liquor is sold or given away, be open on any general election day from the hour of six o'clock a. m. to the hour of eight o'clock p. m. within this State, or within the limits of any incorporated city or town thereof.

Whoever violates, or in any manner aids another in violating the provisions of this section, shall be punished by a fine not exceeding one hundred dollars and not less than twenty-five dollars, and the revocation of the license of any saloon or bar room wherein such liquor is sold or given away.

No person shall introduce in any way into any polling place on election day, until after the vote is canvassed and counted, any spirituous, malt, vinous or intoxicating liquor, and any election officer drinking any

such liquor in such place, or being intoxicated therein during such election or counting, shall be imprisoned in the county jail not exceeding six months, or be fined not exceeding three hundred dollars, or both.

SEC. 2. No person shall falsely make, or make oath to, or fraudulently deface, or fraudulently destroy any certificate of nomination, or any part thereof, or file, or receive for filing, any certificate of nomination, or letter of withdrawal, knowing the same, or any part thereof, to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or who shall wilfully delay the delivery of any ballots, or forge or falsely make the official indorsement on the ballot, or who shall wilfully destroy any ballot. Every person violating any of the provisions of this section shall be deemed guilty of a felony, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

SEC. 3. No person shall, during the election, remove or destroy any of the supplies or conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to, or on the day of, election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this Act. No person shall, during an election, tear down or deface the cards printed for the instruction of voters. Every person wilfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred dollars.

SEC. 4. No officer of election shall do any electioneering on election day. No person shall do any electioneering on election day within any polling place, or any building in which an election is being held, or within one hundred feet thereof, nor obstruct the doors or entries thereto, or prevent free ingress to, and egress from, said building. Any election officer, sheriff, constable or other peace officer is hereby authorized, and it is hereby made the duty of any such officer, to arrest any person violating any of the provisions of this section, and such offender shall be punished by a fine not exceeding one hundred dollars, or less than twenty-five dollars.

SEC. 5. No person shall attempt to influence the vote of any elector by means of a promise or a favor, or by means of violence or threats of violence, or threats of withdrawing custom or dealing in business or trade, or enforcing the payment of a debt, or discharging from employment, or bringing a suit or criminal prosecution, or any other threat of injury to be inflicted by him, or by any other means.

SEC. 6. No person shall in any way offer a bribe to an elector to influence his vote.

SEC. 7. Any registry agent, or other person, who in any manner shall wilfully or corruptly permit any person not entitled to registration or to a certificate of registration, to be registered or have a certificate of registration, or who delays or fails to deliver the certified copies of the official register and the check list to the judges of election as required by law, or who permits any person to register after the date on which the registration books close, or who shall otherwise wilfully or corruptly violate any of the provisions of the law governing elections, the penalty for which is not herein specially prescribed, shall be punished for each

and every offense by imprisonment in the penitentiary for a term of not less than one year nor more than five years, or by a fine of not less than one hundred nor more than two thousand dollars, or by both such fine and imprisonment in the discretion of the court.

SEC. 8. Any person who shall wilfully cause, or endeavor to cause, his name to be registered in any other election district than that in which he resides, or will reside prior to the day of the next ensuing election, except as herein otherwise provided, and any person who shall cause, or endeavor to cause, his name to be registered, knowing that he is not a qualified elector, and will not be a qualified elector on or before the day of the next ensuing election, in the election district in which he causes or endeavors to cause such registry to be made, and any person who shall induce, aid or abet any one in the commission of either of the acts in this section enumerated and described, shall be fined not less than fifty dollars nor more than five hundred dollars, or be confined in the county jail for not less than one month nor more than six months, or both.

SEC. 9. Any person or officer of election who shall put, or permit to be put, into a voting booth any placard, notice or device, except the sample ballots and cards of instruction as by law provided, intended or likely to call the attention of the voter to any candidate, or urge to the voter to vote for any particular candidate, or shall put, or allow anything to be put, into such booths for the use or comfort of the voter whereby the claims of any candidate are urged upon the voter, either directly or indirectly, shall be imprisoned in the county jail not to exceed three months, or fined not to exceed five hundred dollars, or both.

SEC. 10. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 29.

AN ACT

TO PROVIDE FOR THE ISSUE AND SALE OF MUNICIPAL COUPON BONDS, BY INCORPORATED CITIES AND TOWNS; FOR THE APPLICATION OF THE FUNDS DERIVED FROM THE SALE THEREOF; AND TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST THEREON.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That every city or town incorporated under the laws of the Territory of Idaho, or of the State of Idaho, shall have power and authority to issue municipal coupon bonds, not to exceed at any time in the aggregate fifteen per cent of the real estate value of said city or town according to the assessment of the preceding year, for any or all of the following purposes:

FIRST. To provide for the construction and maintenance of necessary water works and supplying the same with water; and to provide lights for streets, public buildings and grounds.

SECOND. To provide for the laying, constructing, equipment and maintenance of sewers and drains.

THIRD. To provide for the grading, paving, construction and laying out of streets and alleys.

FOURTH. To provide for the funding, refunding, purchase and redemption of the outstanding indebtedness of such city or town.

FIFTH. To provide for the establishment and maintenance of hospitals, pest houses, and cemeteries, either within or without the corporate limits of such city or town.

SIXTH. To provide for the purchase, improvement, equipment and maintenance of lands for the use of public parks, either within or without the corporate limits of such city or town.

SEVENTH. To provide for the purchase, erection, construction, and furnishing of public buildings and building sites for the use of such city or town.

EIGHTH. To provide for the establishment, equipment and maintenance of a fire department, and for the purchase of suitable and necessary apparatus and buildings and building sites for the use thereof and for all other necessary public improvements.

SEC. 2. Whenever the common council of such city or the trustees of such town or other legislative body of any such city or town, shall deem it advisable to issue the coupon bonds of such city or town for any of the purposes aforesaid, the mayor and common council of such city or the trustees of such town shall provide therefor by ordinance, which shall specify the purpose of issuing such proposed bonds; if it is to create a new debt, the object thereof must be stated, or, if it is to fund or refund any existing indebtedness, it must be described; and, when it consists of warrants or other securities, they must be described by giving their number, date and amount and the fund out of which the same, according to the terms thereof, are payable; and the ordinance shall declare the purpose and the total amount for which such bonds shall be issued and designate the provisions to be made to pay the interest on such bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of the issuance of the same, and shall also provide for the holding of an election of the qualified electors who are taxpayers of such city or town of which thirty days' notice, to be provided for in such ordinance, shall be given in a newspaper of such city or town designated in said ordinance. Such election shall be conducted as other city elections. The voting at such election must be by ballot, and the ballots used shall be substantially as follows: "In favor of issuing bonds to the amount of dollars for the purpose stated in ordinance No." and "Against issuing bonds to the amount of dollars for the purpose stated in ordinance No."

If at such election held as provided for in this Act, two-thirds of the qualified electors who are taxpayers in such city or town, voting at such election, assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purpose aforesaid, such bonds for said purpose shall be issued in the manner hereinafter provided.

SEC. 3. Said bonds shall be known as municipal coupon bonds of (name of city or town, county and State), and shall be issued as near as practicable in denominations of one thousand dollars each, but bonds of the denomination of five hundred or one hundred dollars may be issued when necessary, and each bond to be made payable within twenty years from the date of its issuance. Said bonds must bear interest at a rate not exceeding six per centum per annum, to be paid on the first day of January and first day of July in each year at the office of the city or town treasurer, or at such banking house or trust company in the City of New York, as may be designated by the mayor and common council of the city or trustees of the

town, issuing such bonds, at the option of the holder thereof. Such bonds shall be redeemable at the pleasure of the city or town at any time after the expiration of ten years from the date of the issuance, and each bond must be redeemed in the order it is numbered.

SEC. 4. The bonds mentioned in the preceding section must have attached to each bond, when negotiated, semi-annual interest coupons covering the interest expressed in the bond from the date of issue until paid. Such bonds must be signed by the mayor or chairman of the board of trustees and attested by the city or town clerk, and bear the city or town seal, and be countersigned by the city or town treasurer, and the coupons attached to such bonds must be signed by the city or town treasurer. Each coupon must have annexed to the same a number corresponding with the number of the bond, and each bond must state upon its face the amount for which the same is issued, the date of issue, and to be made payable to or bearer, and must also recite that it is issued in conformity with the provisions of this Act.

SEC. 5. The said mayor and common council or board of trustees must give notice by publication in some newspaper published in the city or town—if in a weekly paper in four issues thereof,—if in any other paper for four weeks,—of its intention to issue and negotiate such bonds, and invite bidders therefor, and, after ascertaining the best terms upon, and the lowest interest at, which such bonds can be negotiated, must secure the proper engraving or printing thereof, and thereafter must have them consecutively numbered and otherwise properly prepared and executed; and, when so executed, they must each be by the city or town clerk registered in a public record book to be kept for that purpose, and therein must be stated the number, date, amount of each bond, time and place of payment, rate of interest, number of coupons attached, and any other proper description thereof for future identification.

Then said mayor and common council or trustees must from time to time, in such amounts as they may deem best, deliver said bonds to the city or town treasurer and take and file his receipt therefor, and charge him with all bonds so delivered; and any duties required of said mayor and common council or trustees, by virtue of this Act, may be performed at any general, special or called meeting thereof. The city or town treasurer must, under the general supervision of said mayor and common council or trustees, sell said bonds for cash, and in no case must said bonds be sold for less than their face, or par value, and the accrued interest at time of disposal.

All proceeds derived from sale of said bonds must be applied exclusively to the purpose for which said bonds are issued. Said city or town treasurer must keep a record of all bonds disposed of, showing their number, rate of interest, date and amount of sale, and when and where payable, which record he must keep open for the inspection of the public at all reasonable office hours; and he must make such detailed statements to, and as often as required by, said mayor and common council or trustees of all of his transactions under the provisions of this Act.

SEC. 6. The mayor and common council or trustees must, in accordance with the provisions designated to be made for the collection of an annual tax sufficient to pay the interest on such bonds as it falls due and to create and constitute a sinking fund for the payment of the principal of said bonds as they respectively become due, cause to be levied annually upon all the taxable property within said city or town, in addition to the auth-

orized taxes, a sufficient sum to pay said interest, and must in time to provide means for the payment of said bonds as they become due, cause to be levied a sufficient additional sum to pay said bonds at maturity; and all such taxes must be levied, assessed and collected as other city or town taxes, until the bonds so issued are fully paid, including the interest thereon; the faith, credit and all taxable property within said city or town, are, and must continue, pledged, and the proper officers of the city or town must continue to assess and collect on all the taxable property within the limits thereof, the necessary taxes to pay said bonds and interest thereon as the same becomes due.

Should the tax for the payment of interest on any bonds issued under the provisions of this Act, at any time, not be levied or collected in time to meet such payment, the interest must be paid out of any moneys in the city or town general or expense fund, and the money so used for such payment of interest must be repaid to the fund from which so taken out of the first moneys collected from taxes.

SEC. 7. It shall be the duty of the city or town treasurer to use the proceeds arising from the sale of said bonds in payment of the indebtedness described in said ordinance only. And it shall be the duty of the city or town officials to levy, collect and apply the tax herein provided for to the payment of interest and redemption of the principal of the bonds in the manner specified, and for no other purpose, and any failure to comply with the provisions of this Act, by the proper officers, or any neglect or refusal to levy and collect any such tax as aforesaid, shall be deemed a misdemeanor, and any city or town official guilty of the same shall, upon conviction, be fined in an amount equal to the sum that should have been levied; or for any misappropriation he shall be fined in an amount equal to the sum misappropriated, and imprisoned in the city or town jail not exceeding six months.

SEC. 8. That bonds may be issued under the fourth subdivision of section one of this Act for the purpose of funding, refunding, purchase or redemption of the out-standing indebtedness of any such city or town, when the same can be done to the profit and benefit of such city or town and without incurring any additional liability, without the submission of the question of the issuance of such bonds to the electors of the city or town.

SEC. 9. That every city whose mayor and common council, and every town whose trustees, have authorized the issue of bonds for any one or more of the purposes specified in this Act, be and the same are hereby authorized to make provision for the collection of an annual tax sufficient to pay the interest on such bonds as falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same; and in any case where such provision has not been designated, or an insufficient provision has been designated, in the resolution of the mayor and common council of such city or of the trustees of such town which is provided for in section two of this Act, such sufficient provision may and the same is hereby authorized to be made by such mayor and common council or such trustees by an ordinance duly passed, and such provision by such ordinance shall be deemed and held to be a full and complete compliance with all the provisions of this Act, and with all other laws which require such provision to be made or designated; and in case any such bonds au-

thorized as aforesaid have by any city or town been sold for value and the purchase price thereof at not less than par has been paid to and received by such city or town the common council or trustees thereof may by ordinance duly passed ordain and provide that upon the surrender of such bonds by the holder or holders thereof new bonds in the place thereof shall be issued and delivered to such holder or holders, *Provided*, That such new bonds shall not be for any greater sum or rate of interest than the bonds so surrendered, and the bonds so surrendered shall thereupon be immediately cancelled, and the new bonds thus issued in place thereof shall be the valid and binding obligations of the city or town so issuing the same.

SEC. 10. All acts and parts of acts, either special or general, in conflict with the provisions of this Act are hereby repealed.

SEC. 11. An emergency existing, this Act shall take effect and be in force from and after its passage.

Approved February 2nd, 1899.

H. B. NO. 30.

AN ACT

PROVIDING FOR THE HOLDING OF GENERAL AND SPECIAL ELECTIONS; FOR THE ISSUANCE OF ELECTION PROCLAMATIONS; PROVIDING WHAT OFFICERS SHALL BE ELECTED AT SUCH ELECTIONS; THE MANNER OF MAKING NOMINATIONS, FILING THE SAME AND FILLING VACANCIES THEREIN; FOR THE ESTABLISHMENT OF ELECTION PRECINCTS; FOR THE APPOINTMENT OF REGISTRARS AND THE MANNER OF PERFORMING THE DUTIES OF REGISTRAR; PROVIDING THE QUALIFICATIONS OF ELECTORS; THE MANNER OF CONDUCTING ELECTIONS; THE CANVASSING OF THE VOTES AND DECLARATION OF THE RESULTS AND ISSUANCE OF CERTIFICATES; PROVIDING FOR ELECTIONS FOR THE REMOVAL OF COUNTY SEATS AND THE ALTERATION OF COUNTY BOUNDARIES; FOR THE CONTESTING OF ELECTIONS AND MANNER OF CONDUCTING SUCH CONTEST; FOR THE PUBLICATION AND DISTRIBUTION OF ELECTION LAWS; AND FOR THE PRINTING OF BALLOTS AND SUPPLYING OF ELECTION SUPPLIES AT PUBLIC EXPENSE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the provisions hereinafter enacted shall regulate and govern all elections hereafter holden in the State of Idaho for election of all officers provided for by the Constitution and the laws of the State of Idaho, at either general or special elections, except school district elections.

SEC. 2. That every male person over the age of twenty-one years, possessing the qualifications following, shall be entitled to vote at all elections. He shall be a citizen of the United States and shall have resided in this State six months immediately preceding the election at which he offers to vote, and in the county thirty days: *Provided*, That no person shall be permitted to vote at any county seat election who has not resided in the county six months and in the precinct ninety days where he offers to vote; nor shall any person be permitted to vote at any election for the division of a county, or striking off from any county any part thereof, who has not the qualifications provided for in section 3, article XVIII, of the Constitution; nor shall any person be denied the right to vote at any school district election, nor to hold any school district office on account of sex.

SEC. 3. No person is permitted to vote who is under guardianship, idiotic or insane, or who has at any place been convicted of treason, felony, embezzlement of public funds, bartering or selling, or offering to barter or sell, his vote, or purchasing, or offering to purchase, the vote of another, or other infamous crime, and who has not been restored to

the right of citizenship, or who at the time of such election is confined in prison on conviction of a criminal offense.

SEC. 4. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this State or of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, nor while a student of any institution of learning, nor while kept at any almshouse or other asylum at the public expense.

SEC. 5. Every qualified elector shall be eligible to hold any office of this State for which he is an elector, except as otherwise provided by the Constitution.

Electors are privileged from arrest except for treason, felony, or breach of the peace, during their attendance on election.

The Time for Holding Elections for State, District and County Officers, Members of Congress and Presidential Electors.

SEC. 6. A general election shall be held in the several precincts in this State on the Tuesday succeeding the first Monday of November, A. D. 1892, and on the Tuesday succeeding the first Monday of November every alternate year thereafter.

SEC. 7. At the general election, A. D. 1894, and every fourth year thereafter, there shall be elected in every county of the State, a clerk of the district court, who is ex-officio auditor and recorder, and at the general election, A. D. 1892, and every alternate year thereafter, there shall be elected in every county of the State, the following officers, to-wit: Three county commissioners, a sheriff, county treasurer, who is ex-officio public administrator; probate judge, who is ex-officio county superintendent of public instruction, and county assessor, who is ex-officio tax collector; one coroner and one surveyor.

SEC. 8. At the general election, A. D. 1892, and every alternate year thereafter, there shall be elected the following State officers, to-wit: One Governor, one Lieutenant-Governor, one Secretary of State, one State Treasurer, one State Auditor, one Superintendent of Public Instruction, one Attorney-General, and in each representative and senatorial district of the State such Representatives and Senators as they may severally be entitled to. Also on the first Tuesday succeeding the first Monday of November, A. D. 1892, and every alternate year thereafter, there shall be elected the number of Representatives in Congress to which the State may be entitled.

SEC. 9. At the general election, A. D. 1892, and every alternate year thereafter, there shall be elected: One Judge of the Supreme Court, at the general election, A. D. 1894, and every fourth year thereafter there shall be elected in each Judicial District of the State, one district judge and one district attorney.

SEC. 10. At the general election, A. D. 1892, and every fourth year thereafter, there shall be elected such a number of electors of President and Vice-President of the United States as the State may be entitled to in the electoral college.

SEC. 11. At the general election, A. D. 1892, and every alternate year thereafter, there shall be elected in each justice's precinct, except wards in incorporated cities, two justices of the peace and one constable, and all other officers, not herein specified, that now are, or hereafter may

be created shall, unless otherwise provided, be elected on the day of the general election.

Election Proclamations.

SEC. 12. At least forty days before each general election, and whenever he orders a special election, the Governor must issue an election proclamation under his hand and the great seal of the State of Idaho, and transmit copies thereof to the board of commissioners of the counties in which such elections are to be held.

SEC. 13. Such proclamation must contain a statement of the time of election and the offices to be filled.

SEC. 14. The clerk of the several boards of county commissioners must at least twenty days before any general election make out and transmit by registered mail to the registrar of each election precinct, three notices to be as nearly as circumstances will admit as follows: Notice is hereby given that on Tuesday following the first Monday of November next at the (here designate polling place) in the county of an election will be held for Members of Congress, State, county, district and precinct officers (naming the candidates and offices to be filled as the case may be) which election shall be open at eight o'clock in the morning and will continue until seven o'clock in the evening of the same day. Dated this . . . day of . . . A. D. 18 . . . (as the case may be.)

Signed

Clerk of the Board of County Commissioners.

SEC. 15. The registrar aforesaid to whom such notices are transmitted, as aforesaid must cause to be posted up in three of the most public places of each election precinct the notices referring to such election precinct at least fifteen days previous to the time of holding any general election; said notices shall be posted as follows: One at the house or place where the election is authorized to be held, and the others at two of the most public and suitable places in the precinct.

Nominations of Officers.

SEC. 16. Any convention or primary meeting, as hereafter defined, held for the purpose of making nominations to public office, and also electors to the number hereinafter specified, may nominate candidates for public office to be filled by election within the State. A convention or primary meeting, within the meaning of this Act, is an organized assemblage of electors or delegates representing a political party or principle.

SEC. 17. All nominations made by such convention or primary meeting shall be certified as follows:

The certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his residence, his business, and the office for which he is named, and shall designate in not more than five words, the party or principle which such convention or primary meeting represents, and it shall be signed by the presiding officer and secretary of such convention or primary meeting, who shall add to their signatures their respective places of residence and their business. Such certificates, made out as herein required, shall be delivered by the secretary or president of such convention or primary meeting to the Secretary of State or to the county auditor, as hereinafter required.

SEC. 18. Certificates of nominations of candidates for offices to be filled by the electors of the entire State, or of any division or district

greater than a county, shall be filed with the Secretary of State. Certificates of nomination for county and precinct officers shall be filed with the auditor of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal offices shall be filed with the clerks of the respective municipal corporations wherein the officers are to be elected.

SEC. 19. Candidates for public office may be nominated, otherwise than by convention or primary meeting, in the following manner:

A certificate of nomination, containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in section twenty-six of this Act, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected, in the following numbers: The number of signatures, when the nomination is for a State office, shall not be less than three hundred; for a district office, or subdivision of the State including two or more counties, the number of signatures shall not be less than one hundred and fifty; for a county office, not less than fifty; and for a township, precinct or ward office, not less than ten: *Provided*, That the said signatures need not all be appended to one paper. Each elector signing a certificate shall add to his signature his place of residence and his business. Such certificates may be filed as provided for in section twenty-seven of this Act, in the same manner and with the same effect as a certificate of nomination made by a party convention or primary meeting: *Provided*, That the registrar of each precinct or ward, as the case may be, shall certify to the Secretary of State, the county auditor, or the clerk of the municipality, as the case may be, that all the signers of such certificates are qualified electors and registered according to law for the ensuing election.

SEC. 20. No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall join in nominating more than one person for each office to be filled, and no person shall accept a nomination to more than one office.

SEC. 21. The Secretary of State and the auditors of the several counties and clerks of the several municipal corporations shall cause to be preserved, in their respective offices, for one year, all certificates of nominations filed in their respective offices under the provisions of this Act. All such certificates shall be open to public inspection under the proper regulations to be made by the officers with whom the same are filed.

SEC. 22. Certificates of nomination to be filed with the Secretary of State shall be filed not more than sixty days and not less than thirty-five days before the day fixed by law for the election of the persons in nomination. Certificates of nomination herein directed to be filed with the county auditor shall be filed not more than sixty days and not less than twenty-five days before election. Certificates for the nomination of candidates for the municipal offices shall be filed with the clerks of the respective municipal corporations not more than thirty days and not less than ten days previous to the day of election: *Provided*, That the time specified for filing certificates of nominations, as provided in this section, shall not be held to apply to nominations for special elections to fill vacancies caused by death, resignation or otherwise.

SEC. 23. Not less than thirty days before an election to fill any public office, the Secretary of State shall certify to the county auditor of

each county within which any of the electors may by law vote for candidates for such office the names and description of each person nominated for such office, as specified in the certificates of nomination filed with the Secretary of State.

SEC. 24. Whenever any person nominated for public office, as in this Act provided, shall at least thirty days before election, except in the case of municipal elections, in a writing signed by him, and certified to by the registrar of the precinct where the person nominated resides, notifying the officer with whom the certificate nominating him is by this Act required to be filed, that he declines such nomination, such nomination shall be void. In municipal elections such declination must be made at least ten days before the election.

SEC. 25. Should any person so nominated die before the printing of the tickets, or decline the nomination as in this Act provided, or should any certificate of nomination be or become insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancies, proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination; the certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the Secretary of State, he shall, in certifying the nominations to the various county auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And in the event that he has already sent forth his certificate, he shall forthwith certify to the auditors of the proper counties the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted.

SEC. 26. When any vacancy occurs before election day and after the printing of the tickets, and any person is nominated according to the provisions of this Act to fill such vacancy, the officer whose duty it is to have the tickets printed and distributed, shall thereupon have printed a requisite number of stickers, and shall mail them by registered letter to the judges of elections in the various precincts interested in such elections; and the distributing clerk, whose duty it is made by the provisions of this Act to distribute the tickets, shall affix such stickers in the proper place on each ticket before it is given out to the elector.

SEC. 27. Whenever a proposed Constitution or constitutional amendment, or other question, is to be submitted to the people of the State for popular vote, the Secretary of State shall duly, and not less than thirty days before election, certify the same to the auditor of each county in the State.

Questions to be submitted to the people of a county or municipality shall be advertised in some newspaper of general circulation in the county or town to be affected at least twice, and twenty days before election.

Election Precincts.

SEC. 28. The board of commissioners of each county must establish a convenient number of election precincts therein.

SEC. 29. The board may, from time to time, change the boundaries of, create new, or consolidate established precincts; but they must not alter or change any election precinct, or change the place of holding elections in any precinct, after their regular July meeting next preceding any election: *Provided*, That the precincts and wards established, and the places designated in which to hold elections at the time of the taking effect of this Act, shall so remain until changed.

SEC. 30. The board must, in its order appointing judges of election, designate the house or place within the precinct where the election must be held.

SEC. 31. The board of county commissioners of each county of this State must, at their regular meeting in July, 1892, and at their regular meeting in July next preceding each general election thereafter, appoint a registrar for each election precinct in the county, who must be a qualified elector, resident of such precinct, and otherwise a proper person and qualified to perform the duties of such office, and such registrar may hold his office until his successor is appointed and qualified. When any registrar fails to act, or the office becomes vacant, the said board must appoint another registrar; and should the board fail to appoint a registrar, or from any cause none should act, the electors may, on the second Saturday of August, at one o'clock p. m., next preceding any general election, to which this chapter is applicable, meet at the place in the precinct appointed by said board for the holding of such elections and elect a registrar.

SEC. 32. The said board must, prior to the first day of August next preceding any general election, cause notice to be given for not less than fifteen days, by publication in some newspaper published in the county, if there be one, otherwise by at least three notices, posted up in different parts of the county, one of which must be at the court house door, of the names and general description of election precincts, the name of the registrar for each, and the time during which registration may be made. The time during which registration is made is as follows:

“For every general election to which the provisions of this Act are applicable, during every Saturday from the first day of August to and including the last Saturday next preceding such election; at the time of, or before giving such notice, the board must furnish to ‘each registrar two books, one to be known as the ‘Election Register,’ for the registry of qualified electors, and the other for the registry of rejected applicants.

“Each of said books must be ruled and headed substantially as follows:

Number	Name of elector.	Dates of rejection or dates of registry.	Age.	Where born.	Description of residence.	Certificate of naturalization. Exhibit. Yes or No.	Remarks.
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“Said board must also furnish to the registrar the blank notices, certificates, oaths, and all other blanks, books and papers needed to perform the duties of his office.

SEC. 33. Before entering upon the duties of his office, each registrar must take and subscribe, before any officer authorized to administer oaths, the “official oath” required of all officers acting under the laws of the State of Idaho, which, when so taken and subscribed, must be by him filed with the clerk of the board of county commissioners, and said registrar may thereupon register his own name in the elector’s register.

SEC. 34. He must also, prior to the time of commencement of registration post notices at least in three public places in different parts of his precinct, as will be most likely to give notice to the inhabitants thereof, giving the time, days and hours during, and the place at which he will be ready to receive and hear applications for registration, and he must thereafter on the days named by him be at the place of registration designated, from the hours of 9 o’clock a. m. to 5 o’clock p. m., and from 7 o’clock p. m. to 9 o’clock p. m., and receive and register the names of all persons applying, who are, or will be, on the day of election for which registration is made, entitled to vote thereat. He must, also, on any other day of the week, except holidays, during said time of registration, register any such elector who may find and apply to him at his place of registration, and he may at any time or place during said time of registration, register any such elector of his precinct.

FIRST. He may, at any time, examine under oath any applicant as to his qualifications, and he must likewise examine, also permit any qualified elector of his county to examine, any applicant for registration, either when such applicant is not known to the registrar to be a qualified elector, or when any such qualified elector challenges such applicant and distinctly states his cause of challenge.

SECOND. When any applicant claims to be a naturalized citizen the production by him of his certificate of naturalization is prima facie evidence of citizenship. If he cannot produce such certificate, he must state, under oath, positively, the time when, and place and court where, he was naturalized; also he must, by his own, or other testimony, make it satisfactorily appear to such registrar that he has been duly naturalized, but that his certificate thereof has been lost, destroyed or beyond his control, and there-

upon he must be deemed a citizen, and entitled to registration, if otherwise qualified. All examinations before such registrar must be reduced to writing, when desired by such applicant, challenging elector or registrar, but such examination for any one applicant shall not exceed one-half hour, without the consent of the registrar. If any applicant refuses to answer all questions, give all information under his control, take all other oaths, and do all other acts and things required of him by law, his application must be rejected by the registrar.

The registrar, must before he registers any applicant, require him to take and subscribe the oath to be known as the "Elector's Oath," which is as follows:

Elector's Oath.

I do swear (or affirm) that I am a male citizen of the United States, of the age of twenty-one years, or will be the . . . day of, A. D. 189 . . , (naming date of next succeeding election) that I have (or will have) actually resided in this state for six months and in the county for thirty days next preceding the next ensuing election, (in case of any election requiring a different time of residence so make it), that I have never been convicted of treason, felony, embezzlement of public funds, bartering or selling or offering to barter or sell my vote, or purchasing or offering to purchase the vote of another, or other infamous crime, without thereafter being restored to the rights of citizenship; that I will not commit any act in violation of the provisions in this oath contained; that I am not now registered, or entitled to vote, at any other place in this state; that I do regard the constitution of the United States and the laws thereof, and the constitution of this State and the laws thereof, as interpreted by the courts, as the supreme law of the land; (when made before a judge of election add: "And I have not previously voted at this election;") so help me God.

Subscribed and sworn to before me this day of A. D. 189 . .

Register of Precinct County, Idaho.

THIRD. When the registrar admits any one to registration he must enter in the proper column of the "Elector's Register" the number, the name in full, (except any middle name which may be by initial) date of registry, age, place of nativity and residence of the elector so admitted. The residence must be so described by giving the house, street, ward, or part of the precinct he resides in, that it may be easily found; also it shall be stated, if a naturalized citizen, whether or not he produced his certificate, and the registrar may, in the column of remarks, add any pertinent notes.

He must also enter the names, with statements similar to the above, of all persons who are refused registration, in the book kept for that purpose, and therein state the reasons of such refusal.

FOURTH. During the time between the last day of registration and the day of election, each registrar must prepare from his "elector's register" two "check lists" of all the names registered by him, arranged alphabetically according to the surname, placing on the left of a name the same number it bear in the "elector's register," and on the right of the column of names a blank column in which to indicate by the word "voted" when the elector votes; said "check lists" must have a heading, showing for and at what election it was prepared and used; they must be carefully prepared without interlineations, in legible writing, certified and sworn to by the registrar, and not later than the next day preceding the election he must

deliver to one of the judges of election of his precinct his "elector's register," and the register containing the names of those refused registration, and to the other two judges, who are not of the same political party, a copy of each of said "check lists," and such judges must, as the electors vote, write the word "voted" opposite their names in said "check lists" while the clerks of election keep the record of electors voting, as elsewhere provided in the election law."

SEC. 35. All persons offering to vote at any election are subject to challenge, as provided by the election laws, but registration of any elector's name is prima facie evidence of his right to vote, and no person shall vote unless he is first registered.

Each registrar, after so preparing his "check lists," must arrange the "Elector's Oaths" taken before him in the order the names of the electors who took them appear upon the "check lists," and attach them together, putting the names under each letter in a separate package; and all such oaths, certificates and written testimony taken by the registrar, and the register books of electors and persons rejected, delivered to said judges, must all be transmitted, and other election returns, to the clerk of the board of county commissioners, who must preserve the same for at least one year.

SEC. 36. Each registrar must, twenty-five days previous to the day of election, notify the clerk of the board of county commissioners of their respective counties of the probable number of tickets required for the precinct in which he is registrar, basing his estimate upon the number of registered electors, allowing a sufficient number for contingencies.

SEC. 37. When a registered elector desires to remove from a precinct where he is registered, he may, at any time before the registrar has closed his registration books, apply to such registrar to have his name stricken from the register, and registrar must then strike the name of such elector from the register, and shall deliver to said elector a transfer certificate substantially in the following form, to-wit:

Transfer Certificate.

"This certifies that.....was on the....day of.....18...duly registered in Precinct, in the County of....., State of Idaho; and that at his own request his name has been this day erased from the official register of said precinct.

"Witness my hand this....day of.....18....

.....
"Registrar of Precinct, ...County, Idaho.

"Such transfer certificate shall entitle the elector named therein to be registered in any other precinct in the same county, if it be filed with the registrar of such other precinct at any time before the close of the last day of registration.

"Any elector who has taken out a transfer certificate as in this section provided, may personally file the same with the registrar of the precinct in which he desires to register and vote, or he may send his transfer certificate to such registrar by registered mail. If the elector file his transfer certificate personally, he shall be treated as any other applicant for registration; if the elector send his transfer certificate by mail to the registrar, his name shall be entered in the official register and check lists; and on the check lists, opposite the name of each elector who has filed a transfer certificate personally, the registrar shall enter the words, 'registered by certificate,' and opposite the name of each elector who has sent his transfer certificate by mail the registrar

shall enter 'registered by certificate by mail,' and the 'registry' number appearing upon the envelope in which the transfer was sent to him. Upon the day of election when an elector registered by transfer certificate by mail offers to vote, the judges of election, or one of them, shall before receiving and depositing the ballot, administer to such elector the same oath that is required to be taken before registrars by all electors applying for registration, and shall require such elector to exhibit the original registered letter receipt issued to him when he mailed his transfer certificate to the registrar, and the number on the check list opposite the name of such elector must correspond with the number on the registered letter receipt.

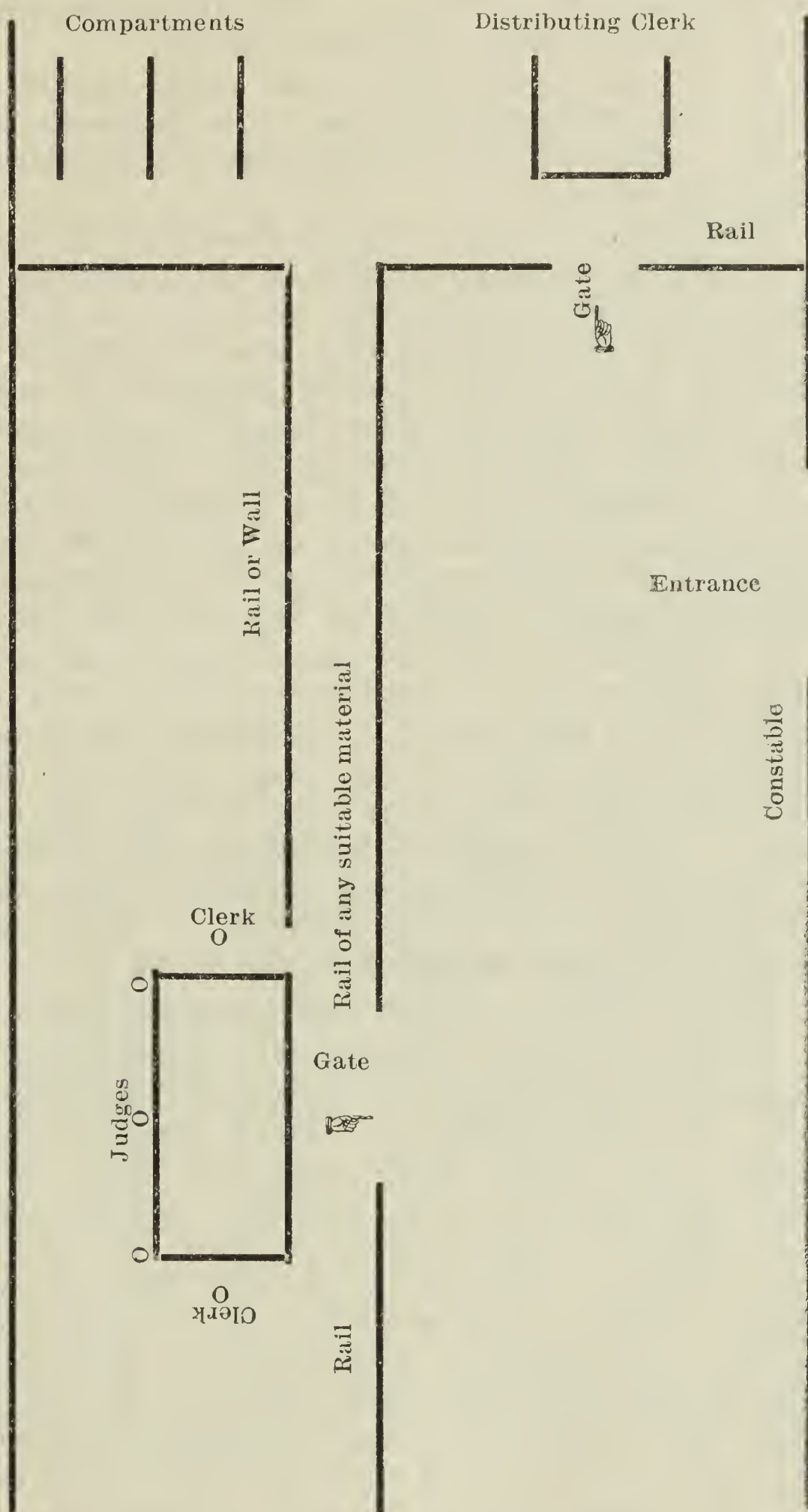
SEC. 38. Should any registrar at any time refuse to register any applicant, such applicant may apply to the district court, or the judge thereof, for a writ of mandate to compel the registrar to register him, and the provisions of the Code of Civil Procedure in similar proceedings are applicable.

SEC. 39. The several registrars shall receive such compensation as shall be allowed by the board of county commissioners, which in no case shall exceed twenty-five cents for each name registered, and the compensation herein provided for shall be paid out of the "current expense" or "county general" fund.

SEC. 40. It is the duty of the county commissioners, at their regular session in July next preceding a general election, to appoint four capable and discreet persons possessing the qualifications of electors, three of such persons to act as judges of election, and one to act as distributing clerk of election at each election precinct; and the clerk of the board must make out and deliver to the sheriff of the county, immediately after the appointment of such judges and distributing clerk, a notice thereof, in writing, directed to the judges and distributing clerk so appointed; and the sheriff, within ten days of the receipt of said notice, must serve the same upon each of the said judges and distributing clerk of election by registered mail. If in any precinct any of said judges or distributing clerk do not serve, the voters of said precinct may elect a judge or judges or distributing clerk to fill the vacancy on the morning of the election, to serve at such election.

SEC. 41. The selection of officers must, as nearly as practicable, represent all the different political parties or principles as represented by the nominees in each county.

SEC. 42. The county commissioners of each county, at their meeting in July next preceding any general election, shall designate and appoint suitable polling places, throughout the county, and shall cause the same to be suitably provided with a sufficient number of voting shelves or compartments, at or in which voters may conveniently mark their ballots, so that in the marking thereof they may be screened from the observation of others, and a guard rail shall be so constructed and placed that only such persons as are inside said rail can approach within ten feet of the ballot boxes and of such voting shelves, places or compartments as are herein provided for. The arrangement shall be such that neither the ballot boxes nor the voting shelves or compartments shall be hidden from view of those just outside the said guard rail, and such polling places shall be as near as practicable in the following form:



The number of such voting shelves or compartments shall not be less than one for every fifty electors, or fraction thereof, registered in the precinct, and the expense of providing such polling places, compartments, guard rails, and all necessary supplies shall be a public charge, and shall be provided in the same manner as other election expenses. Each voting shelf or compartment shall be kept provided with proper supplies and conveniencies for marking the tickets. At their regular meeting in July next preceding any election, the board of county commissioners of each county shall, as far as necessary, alter or divide the election precincts in such manner that each election precinct shall not contain more than four hundred voters: *Provided*, That in precincts containing less than twenty-five registered voters the election may be con-

ducted under the provisions of this Act without the preparation of such booths or compartments as required in this section.

SEC. 43. In all municipal elections the duties specified in the preceding section as devolving on the county commissioners shall devolve on the officers in each city or town whose duty it is to designate and appoint polling places therein.

SEC. 44. The board of county commissioners shall, at their regular meeting in July next preceding a regular election, make provision for an official election stamp (which must bear the "date" and "year" of the election at which it is used, and the words "official ballot"), of such character or device, and of such material, as said board may select, and such official stamp must be changed at each general election and kept secret by the officers furnishing and using it, as provided by law, and no one else must know of its form or make until used according to law. It is also the duty of the county commissioners, at their regular session in July next preceding a general election, to authorize the county auditor to provide a suitable number of election tickets for the county, said tickets to be printed under the same regulations as other county printing. The tickets must be bound in book form, each book containing one hundred tickets and printed in the manner prescribed by law.

SEC. 45. The county commissioners must provide, at the expense of the county, suitable ballot boxes, with lock and key, and an opening in the lid sufficient to admit a single folded ballot, and no larger, and similar boxes for the use of the distributing clerks, in which they shall deposit defaced, mutilated and returned ballots. The keys must be delivered to one of the judges designated by the board.

Duties of County Auditors and Municipal Clerks.

SEC. 46. Except as in this Act otherwise provided, it shall be the duty of the county auditor of each county to provide printed ballots for every election for public officers in which electors, or any of the electors, within the county participate, and cause to be printed in the ballot the name of every candidate whose name has been certified to or filed with the county auditor in the manner provided for in this Act. Ballots, other than those printed by the respective county auditors according to the provisions of this Act, shall not be cast or counted in any election. Nothing in this Act contained shall prevent any voter from writing on his ticket the name of any person for whom he desires to vote for an office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter. The voter may place a cross (x) opposite the name he has written, but his having written the name of his choice is sufficient evidence that such is the person for whom he desires to vote.

SEC. 47. Elections for school district officers are excepted from the provisions of the preceding section. In all municipal elections the duties specified in the preceding section as devolving on the county auditor shall devolve on the municipal clerk.

SEC. 48. All election tickets prepared under the provisions of this Act shall be white in color, and of a good quality of printing paper, and the names shall be printed thereon in black ink. Every ticket shall contain the names of every candidate whose nomination for any office specified in the ticket has been certified or filed according to the provisions of this Act, and no other names. The ticket shall be of sufficient

size to contain the names of all the candidates and questions to be voted on, exclusive of the stub or counterfoil. The width of the stub or counterfoil shall be two inches, and of the same length as the ticket. Each stub shall be consecutively numbered, beginning with number one; the ticket and stub being connected by a perforated line. The width of the ticket shall be divided into as many equal parts by lines the whole length of the ticket, as hereinafter shown, as there are political principles or parties represented by the candidates; each of said parts or divisions to have a heading or caption designating the political principles or party represented by the several candidates, and said headings or captions shall be printed on one straight line, and in the size of type known as long primer. One of such divisions of spaces shall have no heading or caption; the names of the officers to be filled and questions to be submitted shall be printed as on other portions of the ticket and printed in the same continuous straight line, leaving the space below the office designated, so that the voter may write the name (if he so desires) of the person for whom he wishes to vote; *Provided*, A space or margin within which is inscribed a circle one-half inch in diameter is allowed to the right of the name of each candidate or question to be submitted for the voter to designate by placing a cross mark (x) within said inscribed circle opposite the name of the person for whom he wishes to vote, and his answer to the questions; and on the ticket may be printed such words as will aid the voter to do this, as "Vote for one," "Vote for three," "Yes," "No," and the like. The names of candidates for the offices of electors of President and Vice-President of the United States shall be arranged in groups under the political heading or principle designated by the several certificates of nominations or nomination papers. Whenever a constitutional amendment is submitted to the vote of the people the question submitted shall be placed on the official ballot at the top thereof next above the heading or caption designating the political principles or parties; when other questions are submitted to the vote of the people, such questions shall be printed upon the ticket after the lists of candidates. The names of the persons voted (for) shall be printed in long primer capitals, the name of the office in small capitals, and both without spaces except between the different words or initials of each line. The same margins shall be left above the printed matter as below it, and the side margins must be of equal size. The lines must be straight and the matter single ruled, and the face of the ticket and stub must be substantially in the following form:

No. 1.

Constitutional Amendment

Yes ☐

No ☐

REPUBLICAN.		DEMOCRATIC.		POPULIST.			
FOR CONGRESS		FOR CONGRESS		FOR CONGRESS		FOR CONGRESS	
A. B.	☐	C. D.	☐	E. F.	☐		☐
FOR GOVERNOR		FOR GOVERNOR		FOR GOVERNOR		FOR GOVERNOR	
G. H.	☐	I. J.	☐	K. L.	☐		☐
FOR STATE SENATOR		FOR STATE SENATOR		FOR STATE SENATOR		FOR STATE SENATOR	
M. N.	☐	O. P.	☐	Q. R.	☐		☐
Vote for Two [2] FOR HOUSE OF REP- RESENTATIVES		Vote for Two [2] FOR HOUSE OF REP- RESENTATIVES		Vote for Two [2] FOR HOUSE OF REP- RESENTATIVES		Vote for Two [2] FOR HOUSE OF REP- RESENTATIVES	
S. T.	☐	U. V.	☐	W. X.	☐		☐
Y. Z.	☐	A. B.	☐	C. D.	☐		☐
FOR SHERIFF		FOR SHERIFF		FOR SHERIFF		FOR SHERIFF	
E. F.	☐	G. H.	☐	I. J.	☐		☐
FOR COUNTY RECORD- ER		FOR COUNTY RECORD- ER		FOR COUNTY RECORD- ER		FOR COUNTY RECORD- ER	
K. L.	☐	M. N.	☐	Q. P.	☐		☐
Shall bonds be sold for school house ?							Yes ☐
							No ☐

SEC. 49. Whenever the Secretary of State has duly certified to the county auditor any question to be submitted to a vote of the people, the county auditor shall have printed on the regular tickets the question, in such form as will enable the electors to vote upon the question so presented in the manner as in this Act provided. The county auditor shall also prepare the necessary tickets whenever any question is required by law to be submitted to the vote of the electors of any locality, and not to the State generally: *Provided, however,* That in all questions submitted to the voters of a municipal corporation alone, it shall be the duty of the municipal clerk to provide the necessary tickets.

SEC. 50. Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names or descriptions of the candidates nominated for office, or in the printing of the tickets, the probate court of the county may, upon application of any elector, by order,

require the county auditor or municipal clerk to correct such error, or to show cause why such error should not be corrected.

SEC. 51. No ballot must be used or counted at any election except the legal ballot printed by the county auditor, or, in the case of municipal elections, by the clerk of the municipality, and distributed according to law by the distributing clerk within the polling place. And no ticket must be distributed by the distributing clerk, or permitted to be used by the election officers, which has any mark or thing on the back or outside thereof whereby it might be distinguished from any other ballot legally used on the same day. No ballot or ticket printed in imitation of the legal ticket furnished by the county auditor, or, in the case of municipal elections, by the clerk of the municipality, according to law, shall be circulated on the day of election, or brought into the polling place, and no elector shall be permitted to vote any other ballot than the one he received from the distributing clerk.

SEC. 52. Every ticket, when used as a ballot, must be folded so as to conceal its contents and to expose the impression of the official election stamp on the back.

SEC. 53. It shall be the duty of the county auditor of the county (or the municipal clerk in the case of municipal elections) to furnish and cause to be delivered to the judges of election of each election precinct within the county (or within the municipality in case of municipal elections), and in which the election is to be held, at the polling place of the precinct before the opening of the polls, the proper number of tickets as required by this Act: *Provided*, That not less than one hundred tickets shall be furnished for each fifty or fraction of fifty electors registered in each precinct in the county (and in the case of municipal elections, each precinct in the municipality.)

SEC. 54. The county auditor of each county shall keep a record of the number of tickets printed and furnished to each polling place and preserve the same for one year.

SEC. 55. The required number of tickets, together with the official stamp and ink pad for the purpose of stamping or designating the official tickets, as hereinbefore provided, shall be delivered to the judges of election in sealed packages, with marks on the outside clearly designating the polling place for which they are intended, upon receipt of which at least a majority of the judges of election must return receipts therefor to the county auditor in case of county elections (and to the clerk of the municipality in the case of municipal elections) and the several auditors and clerks shall preserve the receipts for one year.

SEC. 56. The county auditor of each county, in case of a general election, and the several city clerks in case of city elections, shall prepare full instructions for the guidance of voters at such elections, as to obtaining tickets, as to the manner of marking them, and as to obtaining new tickets in place of those accidentally spoiled, and they shall respectively cause the same, together with copies of sections three, four and five of an act relating to crimes against the election franchise, to be printed in large, clear type, on separate cards, to be called cards of instruction. The county auditor of each county, and the several city clerks, (in case of a municipal election), shall furnish four such cards to the judges of election in each election precinct, and one additional card for each fifty registered electors or fractional part thereof at the same

time and in the same manner as the printed tickets. The judges of election shall post not less than one of such cards in each place or compartment provided for the preparation of tickets, and not less than three of such cards elsewhere in and about the polling places, upon the day of election. The county auditor of each county (and the several city clerks, in case of a municipal election) shall cause to be printed on tinted or colored paper, without official indorsement of any kind, and furnish to the judges of election of each election precinct, at the same time and in the same manner as the official tickets and official stamps six sample or specimen tickets and one additional sample ticket for each fifty registered electors or fractional part thereof in the precinct. The sample tickets shall be printed like the official or regular tickets, and the same size without the stub. There shall be posted in each of the compartments or booths, one of the sample tickets without the official stamp, and not less than four such tickets posted elsewhere in and about the polling places on the day of election. It shall be the duty of the same officers, at the same time and in the same manner, to provide and furnish to each polling place proper and necessary supplies and conveniences for marking the tickets.

SEC. 57. It is the duty of the clerk of the board of commissioners of each county, on the receipt of the returns of any general or special election, to make out his certificate, stating therein the compensation to which the judges and clerks of the election are entitled for their services, and lay the same before the county commissioners at their next session, and the board of commissioners must order the compensation paid out of the county treasury. The compensation of judges of election and clerks is four dollars per day, and of constables, on duty at polling places, three dollars per day.

Conduct of Elections.

SEC. 58. Before opening the polls, all officers of election must take and subscribe an oath to faithfully perform the duties imposed upon them by law.

Any elector of the township may administer and certify such oath.

SEC. 59. At all elections to be held under this title, the polls must be opened at the hour of eight o'clock in the forenoon, if the regularly appointed judges of election and distributing clerk are present; but in case they are not present, then the polls must not be opened by judges or distributing clerk elected until the hour of nine o'clock, unless a majority of the regular appointed judges are present, and the polls must continue open until seven o'clock in the evening of the same day, at which time the polls must be closed; and upon opening the polls, one of the clerks, under the direction of the judges, must make proclamation of the same; and thirty minutes before closing the polls, proclamation must be made in like manner, and the polls closed in half an hour thereafter.

SEC. 60. Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after having assembled as near as practicable to such place, and before receiving any vote, may adjourn to the nearest convenient place for holding the election, and at such adjourned place forthwith proceed with the election.

SEC. 61. Upon adjourning any election, as provided in the preceding section, the judges shall cause proclamation thereof to be made, and shall

post a notice upon the place where the adjournment was made from, notifying electors of the change of polling place.

SEC. 62. If in any precinct any of said judges or distributing clerk do not serve, the voters of said precinct may elect a judge or judges or distributing clerk to fill the vacancy, on the morning of the election, to serve at such election.

SEC. 63. The election of officers must, as nearly as practicable, represent all the different political parties or principles as represented by the nominees in each county.

SEC. 64. Before receiving any ballots the judge must, in the presence of any persons assembled at the polling place, open and exhibit, close and lock the ballot boxes, and thereafter they must not be removed from the polling place until all the ballots are counted, nor must they be opened until after the polls are finally closed and in the presence of the bystanders.

SEC. 65. The judges of election, on the opening of the polls, must break the sealed packages of election tickets, official stamp and other supplies, in the presence of bystanders.

SEC. 66. Either judge may administer the oath and certify the same required to be administered during the progress of an election, and either judge may challenge a voter of whom he is in doubt as to his qualifications to vote, but in such case one of the remaining judges must administer the oath.

SEC. 67. The judges must choose two persons having similar qualifications with themselves to act as clerks of the election.

The said judges and distributing clerk shall be and continue judges and distributing clerk of all elections of civil officers to be held in their respective wards or precincts until other judges and distributing clerk are appointed, and the said clerks of election may continue to act as such during the pleasure of the judges of election; and the county commissioners must, from time to time, fill all vacancies which may occur in the office of judges of election and distributing clerk at any election precinct within their respective counties.

Voting.

SEC. 68. An elector desiring to vote shall give his name and, if requested so to do, his residence, to one of the clerks of election, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible, and if such name is found on the check list by the election officer having charge thereof, he shall likewise repeat the said name, and the voter shall be allowed to enter the space enclosed by the guard-rail as hereinbefore provided. The distributing clerk shall give him one, and only one, ticket, and his name shall be immediately checked on said list by placing a mark on the registry list to denote that he has received a ticket, and the ticket must be stamped on the back and near the top of the ticket with the "Official Stamp" by the distributing clerk, and thereupon delivered to the elector. Besides the election officers not more than one voter in excess of the voting shelves or compartments provided shall be allowed in said enclosed space at one time.

SEC. 69. On receipt of his ticket, the voter shall forthwith and without leaving the enclosed space, retire alone to one of the voting shelves or compartments so provided, and shall prepare his ticket by marking in the appropriate margin, or place a cross (X) opposite the

name of the candidate of his choice for each office to be filled or by filling in or writing the name of the person for whom he wishes to vote in the blank space provided therefor in the column or division of the ticket for that purpose provided, and marking a cross (X) opposite thereto; and in case of a question submitted to a vote of the people, by marking in the appropriate margin or place a cross (X) against the answer for which he desires to give. Before leaving the voting shelf or compartment the voter shall fold his ticket, without displaying the marks thereon, and so as to expose the impression of the official stamp on the back, and he shall keep the same so folded until he has voted. He shall then hand his ballot to one of the judges and announce his name. He shall mark his ticket or ballot without delay, and shall quit said enclosed space as soon as he has voted.

No such voter shall be allowed to occupy a voting shelf or compartment already occupied by another, nor to remain within said enclosed space more than ten minutes, nor to occupy a voting shelf or compartment more than five minutes in case all of such shelves or compartments are in use and other voters are waiting to occupy the same. No voter, not an election officer, whose name has been checked on the list of the election officers, shall be allowed to re-enter said enclosed space during said election. It shall be the duty of the judges for the time being to secure the observance of the provisions of this section; *Provided*, That if any registered elector, who is blind or otherwise disqualified by reason of physical infirmities rendering such voter incapable of personally marking his ballot, desires to vote, then and in that case, any two of the judges not of the same political party may, at the request of such elector, mark and prepare his ballot for him, placing an (X) mark in the proper place and opposite the name of the candidates for whom such elector desires to vote. When the ballot so marked by the judges is properly prepared and folded it shall be given to the elector, who shall deliver it to the proper judge to be deposited in the ballot box, as in other cases. The judges assisting any such physically incapacitated elector in the preparation of his ballot, must not influence or attempt to influence such voter in the selection of candidates to be voted for and any judge who has assisted any such elector, who shall divulge to any person the name of any candidate for whom such elector voted, shall be guilty of a misdemeanor.

SEC. 70. No person shall take or remove any ticket from the polling place before the close of the polls. If an elector inadvertently or by mistake spoils a ticket, he shall return it folded to the distributing clerk, who must, if satisfied of such inadvertance, give him another ticket. The ticket thus returned shall, without examination, be immediately canceled by writing across the back, or outside of the ticket as folded, the words "spoiled ticket, another issued," and deposit the defaced ticket in a box provided for that purpose. And no one shall be allowed within the guard-rails of the polling place, except the election officers duly appointed, together with the number of voters, as provided in this Act.

Poll Lists.

SEC. 71. The following is the form of poll lists to be kept by the judges and clerks of election.

Poll Lists.

Of the election held in the precinct of, in the County of,

on the . . . day of, in the year A. D. one thousand eight hundred and A. B., C. D. and E. F., judges, and G. H., I. J. and K. L., clerks, of said election, were respectively sworn (or affirmed), as the law directs, previous to their entering on the duties of their respective offices.

Number and Names of Electors Voting.

No.	Name.	No.	Name.
1.	A. B.	3.	E. F.
2.	C. D.	4.	G. H.

We hereby certify that the number of electors voting at this election amounts to

Attest:

G. H.,)
I. J.,) Clerks.
K. L.,)

A. B.,)
C. D.,) Judges of Election.
E. F.,)

Voting and Challenges.

SEC. 72. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain open.

SEC. 73. The judge to whom any ballot may be delivered shall, upon the receipt thereof, pronounce in an audible voice the name of the elector, and if no objection shall be made to him, and the judges are satisfied that he is a legal voter, and is duly registered, and the official stamp is plainly visible on the outside of the folded ballot, he shall, without opening or examining, immediately deposit the ballot in the ballot box, and the clerks of the election shall enter the name of the elector in the poll books.

SEC. 74. No judge of election shall deposit in any ballot box any ballot upon which the "official stamp," as hereinbefore provided for, does not appear. Every person violating the provisions of this section shall be guilty of a misdemeanor.

SEC. 75. No officer, judge or clerk shall communicate, except for some purpose authorized by law, before the polls are closed, any information as to the name or number on the registry list of any elector who has not applied for a ticket, or who has not voted at the polling place; and no officer, judge or clerk, or other persons, whomsoever, shall interfere with, or attempt to interfere with, a voter when marking his ticket.

No officer, judge or clerk, or other person shall, directly or indirectly, attempt to induce any voter to display his ticket after he shall have marked the same, or to make known to any person the name of any candidate for or against whom he may have voted.

SEC. 76. The constable of the precinct shall be in attendance at the polling place on the day of election, and, where there is no constable, the judges of election may appoint some capable person to act as such during the election, and he shall have the power to make arrests for disturbance of the peace, as provided by law for such officers, and he shall allow no one within the guard rail of the polling place except those who go to vote, and shall allow but one elector in a compartment at one time.

SEC. 77. In case any person offering to vote is challenged, one of the judges must declare the qualifications of an elector to such person; if the person so challenged then declare himself duly qualified, and the challenge is not withdrawn, one of the judges must then tender him the elector's oath, as provided for in section forty-three of this Act.

SEC. 78. If the person be challenged as unqualified, on the ground that he is not a citizen, and will not exhibit his papers pertaining to his naturalization, the judges, or one of them, shall put the following questions:

FIRST.—Are you a citizen of the United States?

SECOND.—Are you a native or naturalized citizen?

THIRD.—Have you become a citizen of the United States by reason of the naturalization of your parents or one of them?

FOURTH.—Where were your parents, or one of them, naturalized?

If the person offering to vote claims to be a naturalized citizen of the United States he shall state under oath, when and in what courts he was naturalized.

SEC. 79. If the challenge is on the ground that the person challenged has been convicted of felony and has not been pardoned, he must not be questioned; but the fact may be proved by the production of an authenticated copy of the record, or by the oral testimony of two witnesses and the non-production of a pardon.

SEC. 80. The judges of election, in determining the residence of a person offering to vote, shall be governed by the following rules, so far as they may be applicable.

FIRST. That place shall be held and considered to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

SECOND. A person shall not be considered or held to have lost his residence who shall leave his home and go into another State, Territory or county of this State, for temporary purposes merely with an intention of returning.

THIRD. If a person remove to any other State or to any of the territories, with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in this State.

FOURTH. If a person remove from one county in this State to any other county in the State with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in the county from which he removed.

SEC. 81. If the person be challenged as unqualified, on the ground that he has not resided in this State for six months immediately preceding the election, the judges, or one of them, shall put the following questions:

FIRST.—Have you resided in this State for six months immediately preceding this election, and during that time have you retained a home or domicile elsewhere?

SECOND.—Have you been absent from this State within the six months immediately preceding this election?

THIRD.—If so, when you left, was it for a temporary purpose, with the design of returning, or did you intend remaining away?

FOURTH.—Did you, while absent, look upon and regard this State as your home?

FIFTH.—Did you, while absent, vote in any State or Territory?

If the person be challenged on the ground that he has not resided in the county thirty days, one of the judges shall question him as to his residence in the county, precinct or ward in a manner similar to the before-mentioned method of questioning a person as to his residence in this State.

If the person be challenged as unqualified, on the ground that he is not twenty-one years of age, the judges, or one of them, shall put the following question: Are you twenty-one years of age, to the best of your knowledge and belief? The judges of election, or one of them, shall put all such other questions to the person challenged under the respective heads aforesaid, as may be necessary to test his qualifications as an elector at that election.

SEC. 82. If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him as aforesaid, one of the judges shall tender to him the following oath: "You do solemnly swear (or affirm) that you are a citizen of the United States, of the age of twenty-one years, that you have been a resident of this State for six months next immediately preceding this election, and have not retained a home or domicile elsewhere; that you have been for the last thirty days, and now are a resident of this county and that you have not voted at this election.

SEC. 83. If any person shall refuse to take the oath or affirmation so tendered his vote shall be rejected: *Provided*, That after such oath shall have been taken, the judges may nevertheless refuse to permit such person to vote if they shall be satisfied that he is not a legal voter.

SEC. 84. Whenever any person's vote shall be received after having taken the oath or affirmation prescribed in section eighty-two of this Act, it shall be the duty of the clerks of the election to write on the poll books, at the end of the person's name, "Sworn."

SEC. 85. It shall be the duty of any judge of election to challenge any person offering to vote whom he believes not to be qualified as an elector.

SEC. 86. If an person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions touching the matter of naturalization, he must not be allowed to vote.

SEC. 87. As soon as the polls are finally closed the distributing clerk must deliver to the judges of election the book or books of tickets from which tickets have been taken during the election, and the box containing the defaced, mutilated or returned ballots.

SEC. 88. And the judges of election must immediately proceed to canvass the votes given at such election. The canvass must be public, in the presence of bystanders, and must be continued without adjournment until completed and the result thereof declared.

SEC. 89. The canvass must commence by comparison of the poll lists from the commencement, and a correction of any mistake that may be found therein, until they are found to agree. The box must then be opened, and the ballots found therein counted by the judges, unopened, and the number of ballots in the box must agree with the number marked on the poll list or registry list as having received a ticket, and this number, together with the number of defaced, mutilated and returned ballots, must agree with the number of stubs or counterfoils in the books from which the tickets have been taken.

Any ballot or part of a ballot from which it is impossible to determine the elector's choice, shall be void and shall not be counted: *Provided*,

That when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, it shall be the duty of the judges to count such part.

SEC. 90. The ballots and poll lists agreeing, the board must then proceed to count and ascertain the number of votes cast, and the clerks must set down in their poll books the name of every person voted for, and then at full length the office for which such person received such votes, and the number he did receive, the number being expressed at full length; such entry to be made, as nearly as circumstances will permit, in the following form, to wit:

At an election held at the house of (A. B.) in the town (district or precinct) of, in the County of, and in the State of Idaho, on the . . . day of, A. D., the following named persons received the number of votes annexed to their respective names for the following described offices, to wit: (A. B.) has . . votes for member of Congress; (I. J.) has . . votes for member of State Senate; (K. L.) has . . votes for member of House of Representatives, (and in like manner for any other person voted for). Certified by us,

Attest:

S. T.,	} Clerks of Election.	M. N.,	} Judges of Election.
U. V.,		O. P.,	
W. Y.,		Q. R.,	

SEC. 91. After the canvass of the vote the judges of election must enclose and seal one of the poll books; also, all stubs and unused ticket books, and defaced or mutilated ballots, and the election stamp, under cover, directed to the clerk of the board of county commissioners of the county in which such election was held. And the package thus sealed must be delivered direct to the said clerk personally, or transmitted by special messenger without expense to the county, or deposited in the nearest postoffice by one of said judges, to be chosen by lot. And the postage thereon and the fees for registering the same must be fully prepaid. And said package must be duly registered and receipt therefor taken. And the other poll book and poll list, together with the ballots, must be, by said judges, placed in the ballot box, and by them sealed up and then deposited with one of said judges, to be decided by lot, if they cannot otherwise agree. And the said poll books and ballots must be kept with the seal unbroken for at least eight months, unless the same is required as evidence in a court of law in any case arising under the election laws of this State, and then only when the judge having said ballot box in charge is served with a subpoena requiring him to produce the same in court as evidence in any such before-mentioned case, when the same may be opened under the direction of said court.

Canvass of Returns, Declaration of Results, and Certificates of Election.

SEC. 92. The board of county commissioners, the auditor acting as clerk, in the several counties, must act as a board of canvassers of elections, and must, on the tenth day after any general or special election, or sooner, if all the returns be received, and any two of the commissioners are present, proceed publicly, at their office, to open the returns and canvass the votes of said election, and make up abstracts thereof; and it is their duty to canvass and make up abstracts of all returns that are intelligible on their face and which are sufficiently authenticated to show what returns they are; and if any returns are rejected on account of informality, ambiguity or uncertainty—and none

must be rejected for other causes—then it is the duty of the board to deliver the returns so rejected to the sheriff of the county, who must proceed at once to summons and call together the board of judges of election of the precinct from which said returns were received, and inform them that such return has been rejected; and it is the duty of such board of judges to meet publicly, at the place where the election was held in their precinct, immediately after receiving such notice, and at once proceed to put said return in due form and certify to the same; and for the purpose of so doing they may have the ballot box brought in and opened in their presence, the contents thereof inspected, and when said returns have been duly corrected they must be delivered into the hands of the sheriff, and the board of canvassers may adjourn, to await the correction of said returns, for the period of not more than five days at one time, nor more than ten days in all. When said canvass is completed, the abstract must be made up and signed by the board. The abstracts shall be made out in the following manner:

The abstract of votes for electors for President and Vice-President of the United States shall be on one sheet, and the abstract of votes for Representative in Congress shall be on another sheet, and the abstract of votes for officers of the executive department shall be on another sheet, and the abstract of votes for Senators shall be on another sheet, and the abstract of votes for Representatives shall be on another sheet, and the abstract of votes for Judges of the Supreme Court shall be on another sheet, and the abstract of (votes) for judges of the district court and district attorney shall be on another sheet, and the abstract of votes for county and precinct officers shall be on another sheet; and it shall be the duty of the auditor of the county immediately to make out a certificate of election to each of the persons having the highest number of votes for county and precinct officers, respectively, and cause such certificate to be delivered to the person entitled to it. If any two or more persons have an equal number of votes for the same county or precinct office, and a higher number than any other person, the county commissioners shall immediately determine by lot which of the two candidates shall be elected.

SEC. 93. The auditor of the county, immediately after making out abstracts of votes given in his county, shall make a copy of such abstract and deliver or transmit the same in a registered package by mail to the office of the Secretary of State; the original abstracts he shall file and record in a book in his office to be kept for that purpose. He shall also certify to the abstracts and copies and affix thereto the county seal, and the said auditor shall indorse on the back of each abstract: "Certified copy of the abstract of votes cast for Governor, etc., members of the Legislature, etc., (as the case may be), cast at the regular election in county, ... 18"

SEC. 94. The Governor, Secretary of State, Auditor of State, Treasurer of State and Attorney-General, or any three of them, shall constitute the Board of State Canvassers, and shall canvass the abstracts of votes cast in the different counties of the State for electors of President and Vice-President of the United States, for Representative in Congress, for Judges of the Supreme Court and district courts, for district attorneys, and for Senators and Representatives and all State officers.

SEC. 95. If from any county no such abstract of votes shall have

been received within twenty days next after election by the Secretary of State, he shall dispatch a special messenger to obtain a copy of the same from the county auditor of such county, and such county auditor shall immediately, on demand of such messenger, make out and deliver to him the copy required, which copy of the abstract of votes the messenger shall deliver to the Secretary of State without delay. The said messenger shall receive as compensation for his services three dollars per day and fifteen cents per each mile traveled in going to and returning from the county seat of said county, by the usual route, to be paid by the county.

SEC. 96. For the purpose of canvassing the result of elections, the State Board of Canvassers shall meet at the office of the Secretary of State, at ten o'clock of the forenoon of the twentieth day after any election for any of the officers mentioned in section ninety-four of this Act, if it be not on Sunday; if it be on Sunday, then they shall meet on the twenty-first day, when they shall, if the returns from all the counties of the State be in the possession of the Secretary of State, proceed to canvass the votes; if the returns are not all in, they shall adjourn from time to time, as they deem proper, to await the receipt of all the returns: *Provided, however,* That on the second Wednesday of December next after the election, they shall canvass the votes, whether all the returns be received or not.

SEC. 97. The State Board of Canvassers, when met in accordance with law and a quorum (three) being present, shall proceed to examine and make statement of the whole number of votes given at any such election for all the officers mentioned in section ninety-four of this Act that shall have been voted for in said election, which statement will show the names of the persons to whom such votes shall have been given for either of the said offices, and the whole number given to each, distinguishing the several districts and counties in which they were given; they shall certify such statement to be correct, and subscribe their names thereto, and they shall thereupon determine what persons have been, by the greatest number of votes, duly elected to such offices, or either of them, and shall indorse and subscribe on such statements a certificate of their determination, and deliver them to the Secretary of State.

SEC. 98. If any two or more persons have an equal and the highest number of votes for member of either house of the Legislature, for Judge of the Supreme or district courts, for district attorney, or for any State office, other than those mentioned in section 1 of article four of the Constitution, the State canvassers shall proceed to determine, by lot, which of the candidates shall be declared elected. Reasonable notice shall be given to each candidate of the time when such election will be so determined.

SEC. 99. The Secretary of State shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination as made by the Board of State Canvassers, and shall, without delay, make out and transmit to each of the persons thereby declared to be elected a certificate of his election, certified by him under his seal of office.

SEC. 100. Upon the day fixed by law for the assembling of the Legislature, the Secretary of State shall lay before each house a list of the

members elected thereto, with the districts they represent, in accordance with the returns in his office.

SEC. 101. The Secretary of State shall prepare lists of the names of the electors of President and Vice-President of the United States, elected at any election, procure thereto the signature of the Governor, affix the seal of the State to the same, and deliver one of such certificates thus signed to each of said electors on or before the second Wednesday in December next after such election.

SEC. 102. There shall be an election held in this State for the election of such electors, at the times appointed by any law of the Congress or the Constitution of the United States for such election, and when such election shall be special, the same shall be called, held and the votes polled, canvassed in all respects as at a general election, and the duties of the electors so elected shall be the same as prescribed by law for electors elected at a general election.

SEC. 103. Whenever the judges of election in any precinct or ward discover in the canvassing of votes that the name of any candidate voted for be misspelled, or the initial letters of his Christian name or names be transposed or omitted in part, or altogether, on the ballot, the vote or votes for such candidate shall be counted for him, if the intention of the elector to vote for him be apparent; and whenever the board of county canvassers, or of State canvassers, shall find the returns from any precinct, ward, county or district (as the case may be), do not strictly conform to the requirements of law, in the making, certifying and returning the same, the votes polled in such precinct, ward, county or district shall, nevertheless, be canvassed and counted, if such returns shall be sufficiently explicit to enable such boards, or any person or persons authorized to canvass votes and returns, to determine therefrom how many votes were polled for the several persons who were candidates and voted for at the election of which the votes are being canvassed.

SEC. 104. If upon proceeding to canvass the votes it shall clearly appear to the canvassers that in any statement produced to them certain matters are omitted in such statement which should have been inserted, or that any mistakes which are clerical, merely, exist, they shall cause the said statement to be sent by one of their number (whom they shall depute for that purpose) to the precinct or ward judges, or to the county board of canvassers (as the case may be) from whom they were received, to have the same corrected; and the judges of election or county auditor, (as the case may be), when so demanded, shall make such correction as the facts of the case require, but shall not change or alter any decision before made by them, but shall only cause their canvass to be correctly stated; and the canvassing board may adjourn from day to day for the purpose of obtaining and receiving such statement: *Provided, always,* That they shall not delay counting, past the day provided by law for the completion of the canvass.

Removal of County Seats.

SEC. 105. All elections for the removal of county seats shall be held at the same time and place at which general elections are held.

SEC. 106. Public notice shall be given of the intention to circulate a petition praying for the removal of the county seat of any county from its then present location to some other point within said county, and in said petition designated, at least ten days before the same is circulated, by pub-

lication in some newspaper printed in the county (if there be one), and by posting three printed notices in three public places at the county seat, and a like number at the place to which the county seat is proposed to be removed, in which notices the intent of said petition shall be set forth; and all signers to such petition or petitions shall be void and stricken from such petition if procured six months before the first day of the term of court at which the application is to be made; and whenever such petition or petitions, addressed to the district court of such county, and stating the time when such election shall be held, shall be signed by a number of legal voters of said county, equal in number to a majority of all votes cast at the last general election therein, and shall be filed in the office of the clerk of the district court of said county, not less than twenty nor more than forty days before the first day of the term of said court next preceding the next general election, unless said term commences after the first day of October, then, in such case, the next preceding term. Such petition shall be deemed a proposal to remove the county seat of such county, and the point designated in said petition shall be deemed and taken as fixed by said petition, in pursuance of law, whenever the court shall order an election to such point as hereinafter provided, as the point to which it is proposed to remove the county seat of such county.

SEC. 107. Each petitioner signing such petition shall write, or cause to be written, opposite to his name on said petition, the name of the city and ward in which he then resides, if he resides in a city; or, if he does not reside in a city, then the name of the precinct in which he resides at the time of signing such petition; and no person shall sign such petition unless he shall be, at the time, a legal voter at general elections.

SEC. 108. Said petition or petitions shall, after they are filed in the office of the clerk of the district court of the county, be open to inspection of any and all citizens of the county, but shall not be removed therefrom.

SEC. 109. Any citizen and legal voter at general elections in said county may contest the right of any person whose name is subscribed to said petition, to sign such petition under this Act. And shall have the right to contest said petition as to any names subscribed thereto that he shall have good reason to believe are fictitious: *Provided*, He shall, ten days before the first day of the term of said court, file in the office of the clerk of the district court of such county a list of the names of the persons whose right to sign said petition he is desirous of contesting, together with his affidavit indorsed thereon, that he has good reason to believe, and does verily believe, that such persons named in said list are not legal voters of such county and had no right in law to sign such petition; and shall also file in the office of said clerk, ten days before said term of said court, a list of such names as he has reason to believe are fictitious, together with his affidavit, that he has good reason to believe, and does verily believe, that such names are fictitious; and such persons shall have the right to contest such petitions only as to the names included in said lists.

SEC. 110. It shall be the duty of said court, on the first day of, and during said term of court, to hear all evidence for and against said petition or petitions as to the lists of names filed in said court under this Act. And to strike from such petition or petitions all names proven by competent evidence to be fictitious, and the names of persons having no legal right to sign the same under this Act. And in case there shall be no contest, or if the court finds, after striking from said petition or petitions all names

proven to be fictitious, and all names not legally signed thereto, that it still contains the number of names of legal voters required by this Act, the court shall order said election according to the prayer of said petition; in case of a contest to said petition or petitions, it shall be the duty of the clerk of said court, on request of the persons contesting any petition under the provisions of this Act, to issue subpoenas for such witnesses as said persons shall name; and it shall be the duty of said clerk, on request of any legal voter of the county for the purpose of sustaining any petition, in like manner to issue subpoenas for such witnesses as he shall name. Said subpoenas to be made returnable to the term of court at which such contest will be made.

SEC. 111. All cases of contest arising upon said petitions or affidavits shall have precedence over all other cases at said term of said court, and shall be heard and determined at said term, and the decision of the court shall be final.

SEC. 112. The voting for the removal of any county seat shall be by ballot, and each ballot shall have printed or written thereon the words stated in section 118 of this Act. Such ballot shall be smaller than the general election ballots, and shall be officially stamped, and there shall be printed or written thereon the words "County Seat Ballot," and any elector who is registered, as in this Act provided, and who, in addition to being qualified to vote for county officers, has resided in the county six months and in the precinct ninety days, shall be permitted to vote for or against the removal of the county seat, by handing to one of the judges of election a county seat ballot, at the same time announcing that he is entitled to vote on the question of the removal of the county seat. And if the judges of election are of the opinion that the said elector is entitled to vote on the question of the removal of the county seat, his ballot shall then be deposited in the ballot box, and the clerks of election shall write opposite his name in brackets the words ("County Seat") or [County Division], as the case may be.

SEC. 113. Any person who offers to vote on the question of the removal of the county seat may be challenged by any person and for any of the reasons allowed for other challenges, and the rules provided for other challenges shall apply to such challenges.

SEC. 114. The returns for county seat elections shall be canvassed by the same officers and in the same manner as the returns for county and precinct officers are canvassed, and the result of the vote for the removal of the county seat shall be officially declared by the county board of canvassers in the following manner:

They shall record the total votes cast in each ward, or precinct, both for and against the proposed removal upon the book provided for recording the results of the general election. This record shall be made upon a separate page, or pages, of said book, and after the record is complete and the total result known, they shall make a complete copy of such record, certified to by each member of the board. They shall deposit this certificate with the county auditor, who shall, without delay, file the same with the clerk of the district court which authorized the election, and the auditor shall also cause a copy of the certificate to be published in some newspaper of general circulation in the county.

SEC. 115. When the attempt has been made to remove the county seat of any county, as in this Act provided, and the county board of canvassers

SIXTH.—For any error in any board of canvassers in counting votes or in declaring the result of the election, if the error would change the result.

SEVENTH.—When the incumbent is in default as a collector and custodian of public money or property.

EIGHTH.—For any cause which shows that another person was legally elected.

SEC. 120. The term "incumbent" in this chapter means the person whom the canvassers declare elected.

SEC. 121. When the misconduct complained of is on the part of the judges of election, it shall not be held sufficient to set aside the election, unless the vote of the precinct, township or ward would change the result as to that office.

SEC. 122. The Legislature, in joint meeting, shall hear and determine cases of the contested election for all officers of the executive department. The meeting of the two houses to decide upon such elections shall be held in the House of Representatives, and the speaker of the House shall preside.

SEC. 123. The Senate and House of Representatives shall severally hear and determine contests of the election of their respective members.

SEC. 124. The Supreme Court shall hear and determine contests of the election of Judges of the Supreme Court, judges of the district courts, and district attorneys; and in case they shall disagree, the Governor shall act with them in determining the contest, but no Judge of the Supreme Court shall sit upon the hearing of any case in which he is a party.

SEC. 125. The district courts of the respective counties shall hear and determine contests of election in regard to the removal of county seats, and in regard to any other subject which may by law be submitted to the vote of the people of the county, and the proceedings therein shall be conducted as near as may be hereinafter provided for contesting the election of county officers.

SEC. 126. The district courts shall hear and determine contests of all other county, township and precinct officers, and officers of the cities and incorporated villages within the county.

SEC. 127. Whenever any elector of this State chooses to contest the validity of the election of any of the officers of the executive department of the State, or whenever any elector of the proper county or district chooses to contest the election of any member of the Legislature from such county or district, such person shall give notice thereof, in writing, and leave a copy thereof with the person whose election he intends to contest, within twenty days after the election; if the person cannot be found in his district, then a copy to be left at his last place of residence in the district, naming the points on which the election shall be contested, and the name of some person authorized by law to administer oaths, selected by him to take the depositions, and the time and place for the taking of the same; the adverse party may also select one such person on his part to attend at the time and place of taking such depositions.

SEC. 128. The notice provided for in the preceding section shall be served at least ten days before the day fixed for the taking of depositions. The said two persons selected as aforesaid to take the depositions shall

proceed jointly, or in default of either one of such persons to attend at the time and place fixed upon, the one attending shall proceed to hear and reduce to writing the testimony of all witnesses who may be produced by either of said parties, and may adjourn from day to day until all said testimony shall have been taken and reduced to writing: *Provided*, That such testimony shall be finally closed on or before the 29th of December following.

SEC. 129. No testimony shall be received by the person officiating at the taking of the depositions on the part of the contestant which does not relate to the points specified in the notice, a copy of which notice shall be delivered to the person or persons so officiating, and said testimony, together with a copy of the notice, when taken, shall be certified by the person or persons before whom the same is taken, enveloped, sealed up, indorsed "depositions taken in the matter of the contest of the election of A. B. to the office of," and directed to the Secretary of State, who shall preserve the same, unopened, till the meeting of the Legislature.

SEC. 130. If, at the time of taking depositions to be used before the Legislature, or either branch thereof, in the case of a contested election, the notice shall allege that it is necessary for the determination of such contest that the ballots or the poll books of any election district or districts should be inspected, the officer or officers before whom such depositions shall be taken shall, on the request of either party to the contest, issue an order requiring the county auditor, or other person in whose custody or possession the ballots or poll books may be, naming the district or districts mentioned in the notice, to deliver them to the person or persons therein named, who shall deliver them to the person or persons issuing such order. Such officer or officers shall transmit such ballots or poll books, unopened, in the same envelope with the depositions, as provided in the preceding section.

SEC. 131. On the second day of the organization of the Legislature, the Secretary of the State shall deliver to the speaker of the House all papers relating to the contested elections of executive officers, and to the presiding officers of each house all papers relating to contested elections of the members of their respective houses.

SEC. 132. Upon the reception by such presiding officers of papers relating to contested elections, they shall immediately give notice to their respective houses that such papers are in their possession. Where the papers relate to the contest of an executive State officer, the House of Representatives shall notify the Senate, and a day shall be fixed by both houses, by concurrent resolution, for the uniting of the two houses to decide upon the same, in which decision the yeas and nays shall be taken and entered upon the journal.

SEC. 133. The papers relating to any such contest shall be opened only in the presence of the body by the presiding officer, to whom the same shall be delivered. If ballots or poll books are contained therein, they shall after being opened, remain in the custody of such presiding officer, subject to the inspection of the members, unless they shall by vote be temporarily committed to the chairman of a committee, in which case such chairman shall return them to the proper presiding officer; and they shall, upon the decision of the contest, be again sealed up in an envelope and returned by mail or otherwise to the office of the county auditor in which they were first required to be filed.

SEC. 134. All the evidence in any contest provided for in the last preceding section, except ballots or poll books, shall, after a decision thereof, be preserved in the office of the Secretary of State.

SEC. 135. The election of any person declared elected to any office, other than executive State officers and members of the Legislature, may be contested by any elector of the State, judicial district, county, township, precinct, city or incorporated village in and for which the person is declared elected.

SEC. 136. The contestants shall file in the proper court, within twenty days after the votes are canvassed, a complaint, setting forth the name of the contestant, and that he is an elector competent to contest such election; the name of the incumbent, the office contested, the time of the election, and the particular causes of contest, which complaint shall be verified by the affidavit of the contestant, that the causes set forth are true as he verily believes. The contestant must also file a bond, with security, to be approved by the clerk of the court, or district judge, as the case may be, conditional to pay all costs in case the election be confirmed, the complaint dismissed, or the prosecution fail.

SEC. 137. When the reception of illegal or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, if known, with the precinct, township or ward where they voted or offered to vote, shall be set forth in the complaint.

SEC. 138. Upon the filing of such complaint summons shall issue against the person whose office is contested, in the same manner as in civil actions, and a copy of the complaint shall in all cases accompany the summons.

SEC. 139. The cause shall stand for trial at the expiration of thirty days from the time of service of the summons and complaint, if the court shall then be in session; otherwise, on the first day of the next term thereafter.

SEC. 140. The trial shall proceed at the time appointed, unless postponed for good cause shown by affidavit, the terms of which postponement are in the discretion of the court.

SEC. 141. The proceedings shall be simulated to those in an action, so far as practicable, but shall be under the control and direction of the court, which shall have all the powers necessary to the right hearing and determination of the matter; to compel the attendance of witnesses, swear them and direct their examination; to punish for contempt in its presence or by disobedience to its lawful mandate; to adjourn from day to day; to make any order concerning immediate costs, and to enforce its orders by attachment. It shall be governed by the rules of law and evidence applicable to the case.

SEC. 142. The testimony may be oral, or by depositions taken as in other actions in the court where the case is tried. Subpœnas for witnesses may be issued as in other cases any time after the filing of the complaint.

SEC. 143. The proceedings shall not be dismissed for want of form, if the particular causes of contest are alleged with such certainty as will sufficiently advise the incumbent of the real grounds of contest. If any part of the causes are held insufficient they may be amended, but the incumbent will be entitled to an adjournment if he state on oath that he

has a matter of answer to the amended causes, for the preparation of which he needs further time. Such adjournment shall be upon such terms as the court deem reasonable; but if all the causes are held insufficient, and an amendment is asked, the adjournment shall be at the cost of the contestant. If no amendment is asked for or made, or in case of entire failure to prosecute, the proceedings may be dismissed.

SEC. 144. The style, form and manner of service of process and papers, and the fees of officers and witnesses shall be the same as in other cases in the court where the cause is tried.

SEC. 145. The court may require any person called as a witness, who voted at such election, to answer touching his qualifications as a voter; and if he was not a qualified voter in the county where he voted, then to answer for whom he voted; and if the witness answer such questions no part of his testimony on that trial shall be used against him in any criminal action.

SEC. 146. If an inspection of the ballots or poll books of any election district in this State shall become necessary for the determination of any election contest before any court, the presiding judge thereof may by order, naming the district or districts, require the proper officer to procure the same from the county auditor, or other person in whose possession or custody the same may be, and such clerk or person shall deliver the same to said officer, who shall deliver them unopened to such presiding judge.

SEC. 147. The presiding officer shall open and inspect the same in open court, in the presence of the parties or their attorneys, and immediately after such inspection shall again seal them in an envelope and return them, by mail or otherwise, to the office of the county auditor in which they were at first required to be filed.

SEC. 148. The contestant and the incumbent are liable to the officers and witnesses for the costs made by them respectively. But if the election be confirmed, or the complaint be dismissed, or the prosecution fail, judgment shall be rendered against the contestant for costs; and if the judgment be against the incumbent, or the election be set aside, it shall be against him for costs.

SEC. 149. The judgment of the court in cases of contested election shall confirm or annul the election according to the right of the matter; or, in case the contest is in relation to the election of some person to an office, shall declare as elected the person who shall appear to be duly elected.

SEC. 150. If it appears that two or more persons have—or would have had if the legal ballots cast or intended to be cast for them had been counted—the highest and equal number of votes for the same office, the persons receiving such votes shall decide by lot, in such manner as the court shall by written order direct, which of them shall be declared duly elected; and the judgment shall be entered accordingly.

SEC. 151. When either the contestant or incumbent shall be in possession of the office by holding over, or otherwise, the court shall, if the judgment be against the party so in possession of the office and in favor of his antagonist, issue an order to carry into effect the judgment of the court, which order shall be under the seal of the court, and shall command the sheriff of the county to put the successful party into possession of the office without delay, and to deliver to him all books and papers belonging to the same; and the sheriff shall execute such order as other writs.

SEC. 152. When the person whose election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes shall not be declared elected, but the election shall be declared void.

SEC. 153. The party against whom judgment is rendered in cases tried in the district court may appeal to the supreme court, and if the appellant be in possession of the office, such appeal shall not supersede the execution of the judgment of the court, as provided in the preceding section, unless he give a bond with security, to be approved by the court, in a sum to be fixed by the court, and which shall be at least double the probable compensation of such officer for six months, which bond shall be conditioned that he will prosecute his appeal without delay, and that if the judgment appealed from be affirmed, he will pay over to the successful party all compensation received by him while in possession of said office after the judgment appealed from was rendered, and such bond shall contain the express consent that judgment may be rendered against the sureties on the appeal as provided in the following section.

SEC. 154. If upon the appeal the judgment be affirmed, the appellate court shall render judgment against the appellant and the sureties on his bond, or either of them, for the amount which the appellee is entitled to recover from the appellant on account of such contest, together with the costs; but in such case the sureties, or either of them, shall be entitled to produce and examine witnesses concerning the amount of such recovery.

SEC. 155. If upon appeal the appellant shall not be in possession of the office, he shall give bond, with security to be approved by the court where the judgment is rendered, conditioned to pay all costs that may be adjudged against him upon such appeal.

SEC. 156. It shall be the duty of the Secretary of State to cause to be published in pamphlet form and distributed through the county clerks of the respective counties, a sufficient number of copies of this law, and such other laws as bear upon the subject of election, as will place a copy thereof in the hands of all officers of elections.

SEC. 157. Special elections shall be conducted and the results thereof canvassed and certified in all respects, as near as practicable, in like manner as general elections, except as otherwise provided; but special elections shall not be held, unless when required by public good, and in no case within ninety days next preceding a general election.

SEC. 158. In all cases where special elections are to be held to fill vacancies in offices mentioned in the preceding subdivision, the board of canvassers shall meet at twelve (o'clock) m. on the third day after such election, to canvass the votes cast at such election, and the county auditor, within four days after any special election for a member of the Legislature, or Representative in Congress, shall transmit to the Secretary of State an abstract of the votes cast at said election, if there be more than one county in the district.

SEC. 159. Within ten days after said election in the case last mentioned, the Board of State Canvassers shall meet and canvass the votes cast to fill such vacancy, and if the returns have not been received from all the counties composing said district, they may adjourn to such day as they deem necessary, not exceeding five, for the purpose of receiving said returns.

SEC. 160. The provisions relating to general elections shall govern special elections, except where otherwise provided for.

SEC. 161. Whenever a special election is ordered by the board of commissioners, notice must be issued and posted in the same manner as for a general election.

SEC. 162. All acts and parts of acts enacted by any Territorial Legislature relating to election be and the same are hereby repealed: *Provided*, That nothing in this Act contained shall be construed as repealing any of the provisions contained in the penal code.

SEC. 163. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved February 2, 1899.

H. B. NO. 31.

AN ACT

CONCERNING ELECTORS OF PRESIDENT AND VICE-PRESIDENT OF THE UNITED STATES, PRESCRIBING THEIR DUTIES; THE MANNER OF FILLING VACANCIES THEREIN AND FIXING THEIR COMPENSATION.

Be it enacted by the Legislature of the State of Idaho:

Meeting of Electors.

SECTION 1. The electors chosen to elect a President and Vice-President of the United States shall at 12 o'clock on the day which is or may be directed by the Congress of the United States, meet at the seat of government of this State, and then and there perform the duties enjoined upon them by the Constitution and laws of the United States.

Duties of Electors, Penalties.

SEC. 2. Each elector of President and Vice-President of the United States shall, before the hour of twelve o'clock on the day next preceding the day fixed by the law of Congress to elect a President and Vice-President, give notice to the Governor that he is at the seat of government and ready at the proper time to perform the duties of an elector; and the Governor shall forthwith deliver to the electors present a certificate of all the names of the electors; and if any elector named therein fails to appear before nine o'clock on the morning of the day of election of President and Vice-President as aforesaid, the electors then present shall immediately proceed to elect, by ballot, in the presence of the Governor, persons to fill such vacancies.

Vacancies in Electors, How Filled.

SEC. 3. If more than the number of persons required to fill the vacancies, as aforesaid, have the highest and an equal number of votes, then the Governor, in the presence of the electors attending, shall decide by lot which of said persons shall be elected; otherwise they, to the number required, having the greatest number of votes, shall be considered elected to fill such vacancies.

Persons Elected to Fill Vacancies to be Notified.

SEC. 4. Immediately after such choice is made the names of the persons so chosen shall forthwith be certified to the Governor by the electors making such choice; and the Governor shall cause immediate notice to be given in writing to the electors chosen to fill such vacancies; and the said persons so chosen shall be electors, and shall meet the other electors at the same time and place, and then and there discharge all and singular the

duties enjoined on them as electors aforesaid by the Constitution and laws of the United States and of this State.

SEC. 5. Every elector of this State for the election of President and Vice-President of the United States, hereafter elected, who shall attend and give his vote for those offices at the time and place appointed by law, shall be entitled to receive the sum of five dollars per day for each day's attendance at such election, and fifteen cents per mile for each mile he shall travel in going to and returning from the place where the electors shall meet, by the most usual traveled route, to be paid out of the general fund, and the Auditor of State shall audit the amount and draw his warrant for the same.

SEC. 6. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 32.

AN ACT

FIXING THE TERM OF STATE, DISTRICT AND COUNTY OFFICERS; PRESCRIBING THE FORM OF OFFICIAL OATH AND BEFORE WHOM IT MUST BE TAKEN BY COUNTY OFFICERS; AMENDING SECTION 355 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The regular term of office of State and district offices, and the judges of the Supreme and district courts, shall commence on the first Monday of January next after their election.

SEC. 2. The Senators and Representatives shall be elected for the term of two years from and after the first day of December next following the general election.

SEC. 3. Before any officer elected or appointed to fill any office, created by the laws of the State of Idaho, enters upon the duties of his office, he must take and subscribe an oath, to be known as the "official oath," which is as follows:

I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution and the laws of this State; that I will faithfully discharge all the duties of the office of..... according to the best of my ability. So help me God.

SEC. 4. The oath of office must be taken by county commissioners before the county recorder of their respective counties on the second Monday of January succeeding each general election, and on the same day the other county officers must take and subscribe the official oath before the chairman of the board.

SEC. 5. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

SEC. 6. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved the 2nd day of February, 1899.

H. B. NO. 33.

AN ACT

CONCERNING VACANCIES IN PUBLIC OFFICES, THE MANNER OF FILLING THEM AND FIXING THE TENURE OF THE INCUMBENT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Every civil office shall be vacant upon the happening of

either of the following events at any time before the expiration of the term of such office, as follows:

FIRST.—The resignation of the incumbent.

SECOND.—His death.

THIRD.—His removal from office.

FOURTH.—The decision of a competent tribunal declaring his office vacant.

FIFTH.—His ceasing to be a resident of the State, district, county, in which the duties of his office are to [be] exercised, or for which he may have been elected.

SIXTH.—A failure to elect at the proper election, there being no incumbent to continue in office until his successor is elected and qualified, nor other provisions relating thereto.

SEVENTH.—A forfeiture of office as provided by any law of the State.

EIGHTH.—Conviction of any infamous crime, or of any public offense involving the violation of his oath of office.

NINTH.—The acceptance of a commission to any military office, either in the militia of this State, or in the service of the United States, which requires the incumbent in the civil office to exercise his military duties out of the State for a period not less than sixty days.

SEC. 2. Resignations of civil offices may be made as follows:

FIRST.—By the Governor to the Legislature, if in session; if not, to the Secretary of State.

SECOND.—By Senators and Representatives in Congress, and by all officers elected by the qualified voters of the State, and by Judges of the Supreme Court and district courts, district attorneys and Regents of the University, to the Governor.

THIRD.—By members of the Senate and House of Representatives, to the presiding officers of their respective bodies, if in session, who shall immediately transmit information of the same to the Governor. If such bodies are not in session, to the Governor.

FOURTH.—By all county and precinct officers, to the county board, and by members of the county board, to the county auditor.

FIFTH.—By all township officers, to the township clerk; and by the township clerk to the town board.

SIXTH.—By all officers holding appointment, to the officer or body by whom they were appointed. Such resignation shall not take effect until accepted by the board or officer to whom the same is made.

SEC. 3. All vacancies in any State office, and in the Supreme and district courts, or in the office of district attorney, unless otherwise provided for by law, shall be filled by appointment by the Governor, until the next general election after such vacancy occurs, when such vacancy shall be filled by election.

SEC. 4. Vacancies shall be filled in the following manner:

In the office of the reporter of the Supreme Court, by the Supreme Court. In all other State and judicial district offices, and in the membership of any board or commission created by the State, where no other method is specially provided, by the Governor. In county and precinct offices, by the county board; and in the membership of such board, by the Governor. In township offices, by the town board; but where the offices of the town board are all vacant, the clerk shall appoint; and if

there be no town clerk, the county auditor shall appoint. In city and village offices, by the mayor and council or board of trustees.

SEC. 5. Every officer elected or appointed for a fixed term shall hold office until his successor is elected or appointed and qualified, unless the statutes under which he is elected or appointed expressly declares the contrary. This section shall not be construed in any way to prevent the removal or suspension of such officer, during or after his term in cases provided by law.

SEC. 6. Appointments under the provisions of this chapter shall be in writing, and continue until the next election, at which the vacancy shall be filled and until a successor is elected and qualified, and be filed with the Secretary of State, or proper township clerk, or proper county auditor, respectively.

SEC. 7. When a vacancy occurs in a public office, possession shall be taken of the office room, and of the books, papers, and all things pertaining to the office, to be held until the election or appointment and qualification of a successor, as follows:

Of the office of county clerk, by his deputy, if there be one; if not, by the county commissioners; and in case of any delay in the election or appointment of a successor to the county clerk, his deputy shall continue to discharge the duties of the office, being responsible for the conduct and management thereof upon his official bond. Of the office of county treasurer, by the sheriff. Of any of the State officers, by the Governor, or in his absence or inability at the time of the occurrence as follows: Of the Secretary of State, by the Treasurer; of the Auditor of Public Accounts, Commissioner of Public Lands and Buildings, and Superintendent of Public Instruction, by the Secretary of State; of the Treasurer, by the Secretary of State and Auditor of Public Accounts, who shall make an inventory of the money and warrants therein, sign the same and transmit it to the Governor, if he be in the State; and the Secretary of State shall take the keys of the safes and desks, after depositing the books, papers, money and warrants therein, and the Auditor shall take the key of the office room.

SEC. 8. Vacancies occurring in any State, judicial district, county, precinct, township or any public elective office, thirty days prior to any general election shall be filled thereat. Vacancies occurring in the office of probate judge or justice of the peace, shall be filled by appointment by the county commissioners.

SEC. 9. All vacancies in any county or precinct office of any of the several counties of the State, except that of the county commissioners (who shall be appointed by the Governor,) shall be filled by appointment by the county commissioners of the county in which the vacancy occurs until the next general election, when such vacancy shall be filled by election.

SEC. 10. Whenever the Governor appoints a county commissioner to fill a vacancy in any county, he shall appoint a person who is a resident of the commissioner district of the county in which the vacancy exists.

SEC. 11. Whenever any vacancy shall occur in the office of Representative in Congress from the State, it shall be the duty of the Governor to appoint a day to hold a special election to fill such vacancy, and cause

notice of such election to be given as required in sections fourteen and fifteen of the general election law.

SEC. 12. When a vacancy occurs in the office of Representative in Congress, or members of the Legislature, and the body in which such vacancy exists will convene prior to the next general election, the Governor shall order a special election to fill such vacancy at the earliest practicable time, and ten days notice of such election shall be given.

SEC. 13. Any of the said officers that may be elected or appointed to fill vacancies may qualify and enter upon the discharge of the duties of their offices immediately thereafter; and, if elected, they may hold the same during the unexpired term for which they were elected, and until their successors are elected and qualified; but if appointed they shall hold the same only until their successors are elected and qualified. Whenever a vacancy occurs in either house of the Legislature, the Governor must at once issue a writ of election to fill such vacancy: *Provided*, That it is apparent that there will be a session of the Legislature after such vacancy occurs and before the next general election.

SEC. 14. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

SEC. 15. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved the 2nd day of February, 1899.

H. B. NO. 34.

AN ACT

REGULATING THE RIGHTS OF ALIENS, CORPORATIONS AND ASSOCIATIONS TO ACQUIRE REAL ESTATE; PROHIBITING THE EMPLOYMENT OF UNNATURALIZED ALIENS AND PROVIDING FOR THE DISCHARGE OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION. 1. No person other than a citizen of the United States, or who has declared his intention to become such, nor any association or corporation, except railway corporations, whose members are not exclusively citizens of the United States, or persons who have declared their intention to become such, shall hereafter acquire any land, or title thereto, or interest therein, other than mineral lands, or such as may be necessary for the actual working of mines and the reduction of the products thereof: *Provided*, That no person not eligible to become a citizen of the United States shall acquire title to any land or real property within this State, except as hereinafter provided: *Provided, further*, This Act shall not prevent the holders (whether aliens or non-residents, corporations or associations) of liens upon real estate, or any interest therein, heretofore or hereafter acquired from holding or taking a valid title to the real estate in the enforcement of such lien; nor shall it prevent any such alien, association or corporation from enforcing any lien or judgment for any debt or liability now existing, or which may be hereafter created, nor from becoming a purchaser at any sale made for the purpose of collecting or enforcing the collection of such debt or judgment; nor from preventing widows or heirs who are aliens, or who have not declared their intention to become citizens, from holding lands by inheritance; but all lands acquired as aforesaid shall be sold within five years after the title thereto shall be perfected in such alien, association or corporation, and in default of such sale, within such time, such real estate shall revert and escheat to the State of Idaho. The

provisions of this Act shall not be construed in any way to prevent or interfere with the ownership of mining land, or land necessary for the working of mines or the reduction of the products thereof.

SEC. 2. Any person, whether citizen or alien, (except as hereinafter provided) natural or artificial, may take, hold and dispose of mining claims and mining property, real or personal, tunnel rights, mill sites, quartz mills and reduction works used or necessary or proper for the reduction of ores, and water rights used for mining or milling purposes, and any other lands or property necessary for the working of mines or the reduction of the products thereof: *Provided*, That Chinese, or persons of Mongolian descent not born in the United States, are not permitted to acquire title to land or any real property under the provisions of this Act.

SEC. 3. No person not a citizen of the United States, or who has not declared his intention to become such, or who is not eligible to become such, shall be employed upon any State or municipal works; nor shall any such person be employed by any contractor to work on any public works of the State or any municipality: *Provided*, That any State prisoner may be employed within the State prison grounds and as provided in section 3, article 13, of the Constitution.

SEC. 4. Any person who shall violate any of the provisions of section one of this Act, on conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for each person so employed, or by imprisonment in the county jail until such fine be paid, or until discharged as provided by law.

SEC. 5. It shall hereafter be unlawful for any county government or municipal or private corporation organized under the laws of this State, or organized under the laws of another State or Territory or in a foreign country and doing business in this State, to give employment in any way to any alien who has failed, neglected, or refused, prior to the time such employment is given, to become naturalized or declare his intention to become a citizen of the United States.

SEC. 6. Whenever employment has been innocently given to any alien by any county government, municipal or private corporation mentioned in Section 1 of this Act, and complaint shall be made in writing by any person to the officers of the county government, or municipal corporation, or general manager, superintendent, foreman, or other agent of the private corporation, having charge or superintendency of the labor of such alien employee, that such employee is an alien he shall forthwith discharge such employee from employment unless said employee shall produce his declaration to become a citizen, or his certificate of naturalization, or a duly certified copy thereof.

SEC. 7. Any public officer or any county government, or municipal corporation, or any general manager, superintendent, foreman, or other agent of any private corporation, or any contractor or agent of any company engaged in public work, who shall violate any of the provisions mentioned in this Act, who shall knowingly give employment to any alien or who having innocently given such employment shall on complaint being made to him by any person fail or refuse to discharge any such employee forthwith on the failure or refusal of such employee to produce for his inspection and the inspection of the complainant his declaration of intentions to become a citizen, or certificate of naturalization as provided in section 2 of this Act, shall be deemed guilty of a misdemeanor.

SEC. 8. Whereas an emergency exists this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 35.

AN ACT

DEFINING THE POWERS AND DUTIES OF THE STATE BOARD OF LAND COMMISSIONERS, PROVIDING FOR THE SELECTION, LOCATION, PROTECTION, SALE, RENTAL AND GENERAL MANAGEMENT OF THE PUBLIC LANDS OF THE STATE, AND FOR THE INVESTMENT OF THE FUNDS ARISING FROM THE SALE AND LEASING OF SUCH LANDS AND FOR THE SALE AND PROTECTION OF THE TIMBER ON THE LANDS OF THE STATE: AND REPEALING AN ACT ENTITLED, "AN ACT DEFINING THE DUTIES OF THE STATE BOARD OF LAND COMMISSIONERS, TO PROVIDE FOR THE SELECTION, LOCATION, PROTECTION, SALE, RENTAL AND GENERAL MANAGEMENT OF THE PUBLIC LANDS OF THE STATE, AND FOR THE INVESTMENT OF THE FUNDS ARISING FROM THE SALE AND LEASING OF SUCH LANDS," APPROVED FEBRUARY TWENTY-SIX, EIGHTEEN HUNDRED AND NINETY-ONE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The State Board of Land Commissioners provided for in section seven, of article nine of the Constitution of Idaho, consisting of the Governor, Superintendent of Public Instruction, Secretary of State and Attorney General, shall cause all the public lands now owned by or the title to which may hereafter be vested in the State, to be selected and registered, and thereafter sold or leased, and the funds arising from the sale or leasing thereof (except university lands) shall be invested in the manner provided in this Act.

SEC. 2. The Board shall appoint one or more suitable persons to perfect the selection and location of all lands granted, or to be granted to the State by the United States government; also to select lands in lieu of all lands granted heretofore, or which may be granted, and which may have been disposed of by the general government, or occupied by bona fide settlers. The person or persons appointed as aforesaid, shall each receive a compensation of five dollars per day for all the time actually and necessarily employed in the performance of his duties, and such traveling expenses as may be allowed by the Board. The Board shall have power to cancel, relinquish, or release the claims of the State to all lands heretofore or hereafter selected which have been occupied by bona fide settlers, when in the opinion of the Board the substantial rights of the State will not be injured thereby.

SEC. 3. The Board shall cause suitable abstracts to be made of all lands owned by the State, and entered in suitable and well bound books. Such abstracts shall show in proper columns and pages, the county in which each tract is situated; the section, part of section, township and range; whether timbered or not, mineral or non-mineral, in whole or in part; improved or unimproved, and the value of improvements (if any); the character, whether agricultural or grazing; the date of appraisement; the value per acre; the date of sale or lease; the price per acre, if sold; the name of the purchaser or lessee; the amount paid in cash; the amount unpaid; the amount of the annual interest or rental; the date of deed from the State; and such other information as may be necessary to show a complete and full abstract of the condition of each tract of land acquired by the State until final payment by the purchaser and the issue of a deed for the land by the State.

SEC. 4. For the purpose of making the abstracts provided for in the preceding section, and keeping the records provided for in this Act, the

secretary of the Board with the approval of the Board, shall have power to employ necessary clerical assistance, whose compensation shall be fixed by the Board.

SEC. 5. When the abstracts provided for in section 3 of this Act are made, the Board may cause the lands therein described to be appraised, and the appraisement may be made by an agent or agents of the Board appointed to select lands granted to the State by the United States government, as provided in section 2 of this Act or the Board may appoint an agent or agents for that purpose. The person or persons selected to make such appraisement shall view each parcel or lot of land and make return under oath to the State Board giving in detail the correct and true value of each parcel or lot of land and of the timber thereon, if any; stating the character of the land in whole or in part, whether timbered or not; mineral or non-mineral; agricultural or grazing; arid or not; improved or unimproved; occupied or unoccupied; and the value of the improvements thereon, if any; and the name of the owner of the improvements. In making appraisements no land shall be deemed to be "improved land" and nothing shall be deemed to be "improvements" unless such improvements as may be found by the appraisers were made pursuant to the provisions of a lease or other contract with the State.

SEC. 6. The State Board shall have general supervisory power over all matters of appraisement under this Act, and may set aside any appraisement which said Board is convinced is unreasonable. All appraisements must be approved by the Board before compensation for making the same may be allowed, and no compensation shall be allowed for appraising any land the appraisement of which is set aside by the Board.

SEC. 7. In all counties where the public lands or any portion thereof, have been appraised, the State Board shall, when deemed conducive to the best interests of the State, attend in person or by agent, at such times as the said Board shall direct, and offer at public auction, at the court house of the county, all or any of the appraised and unsold and unleased lands situated in the county where such public auction is held, to the highest bidder: *Provided*, That no land shall be sold for less than the appraised value thereof, nor for less than ten dollars per acre: *Provided, also*, That not more than one hundred and sixty acres, nor less than a legal subdivision, (except in cases where lands are subdivided as provided in section 22) be sold to any one individual, company or corporation. At the close of the sale of lands provided for in this section, the person conducting the said sale shall offer, at public auction, the timber on the unsold and unleased lands situated in the county, belonging to the State, to the highest bidder; *Provided*, That no timber shall be sold for less than the appraised value thereof. And *provided, also*, That all rights of ownership in any timber on lands of the State by right or virtue of purchase from the State, shall cease twenty years from and after such purchase. Notice of all sales of land or timber or both, shall be given by publication, in some newspaper published and of general circulation in the county wherein the sale will be held for at least once a week for four weeks next preceding the sale; such notice shall specify the time when, and the place where the sale will be held.

SEC. 8. Payments for lands and timber sold under the provisions of this Act shall be made as follows: For timber and for lands chiefly valuable for timber, cash in hand; for lands not chiefly valuable for timber, but on

which the timber is appraised at more than two and one-half dollars per acre, at least one-half cash in hand; for other lands not less than one-tenth of the purchase price cash in hand.

On all lands whereon there is timber appraised at not to exceed two and one-half dollars per acre, the appraised value of the timber shall be added to and considered as a part of the value of the land, and such land shall be deemed agricultural or grazing land and when sold shall be paid for as if no timber were growing thereon.

Notes shall be given by the purchaser for the unpaid portion of the purchase price of all land sold to him, and shall be due in ten years from the date of the sale unless the same shall fall due, at the option of the State, because of the failure of the purchaser to perform the covenants of the contract expressed in said note or notes. The rate of interest on all such notes shall be six per centum per annum, and shall be due and payable as follows: On the day of sale the interest on the unpaid portion of such purchase price shall be computed and paid up to the first day of January next ensuing, and thereafter it shall become due and payable annually in advance on the first day of January of each year.

All notes required to be given by the provisions of this section shall be executed at the same time that the first payment of purchase money is made, and shall be in the form prescribed by the State Board.

Any purchaser may make full payment for land purchased, at any time; and after the payment of the amount required to be paid at the time of sale, a purchaser may pay any part of the amount due and such payment shall be endorsed on the note given for the unpaid portion of the purchase price of the land on account of which such partial payment has been made.

SEC. 9. All payments of principal or interest provided for in the last preceding section shall be made to the county treasurer of the county in which the land purchased is situated, and all notes required to be executed shall be delivered to him by the purchaser or purchasers at the time of making the first payment of principal, at the time of sale.

SEC. 10. When the public lands or any portion thereof, in any county have been appraised as hereinbefore provided, it shall be the duty of the State Board to cause duplicates of the abstracts provided for in section 3, to be prepared and sent forthwith to the county treasurer of such county, and the county treasurer shall preserve the same as a record of his office. In such record said treasurer shall keep an account of all sales of land and timber and of all leases made in his county. Whenever after the transmission of such duplicate abstracts to the county treasurer other lands are appraised in that county a copy of the appraisement in full shall be forwarded to such treasurer by the State Board and shall be entered by said treasurer in said duplicate abstracts. County treasurers of the several counties in which lands or timber have been sold or lands leased, shall use due diligence to collect all money due the State for lands and timber sold, both principal and interest, and for lands leased. Whenever payments of principal or interest for lands sold or of rental for lands leased are made, the county treasurer shall deliver a receipt therefor to the person making the same, a duplicate of which such treasurer shall file with the county auditor, to be by such auditor transmitted to the State Board after such auditor shall have countersigned the same. Duplicate receipts when received by the State Board and entered in the records of the Board shall be deposited with the State Auditor; and no duplicate receipt whether for principal,

interest or rental shall be held valid unless countersigned by said county auditor.

SEC. 11. Any person purchasing land upon which improvements have been made by any other person, and appraised as provided in section 3 of this Act, shall pay to the county treasurer, in addition to the amount of principal and interest required by law to be paid at the time of sale, the full appraised value of such improvements. The amount thus paid for improvements, shall be paid by the county treasurer to the owner of the improvements unless such owner shall elect within ninety days of such sale to remove the improvements and remove the same, (for which purpose he shall have the right to go upon the land.) In case the owner elect to remove the improvements and remove the same within said ninety days the county treasurer shall return to the person by whom it was paid, the amount paid for improvements.

SEC. 12. Upon the sale of lands under the provisions of this Act upon which full payment has not been made as herein provided, the State Board shall issue to the purchaser a certificate of sale showing the land purchased, the amount paid, the amount due, and the time when the principal and interest shall become due. All payments of interest made subsequent to the issue of such certificate of sale shall be endorsed upon such certificate. Upon the filing of countersigned duplicate receipts evidencing full payment of principal and interest for any tract of land sold, the Governor shall, under the great seal of the State, issue a deed therefor to the purchaser, or his assignee. All deeds so issued shall be attested by the Secretary of State and the Secretary of the State Board of Land Commissioners, and a record thereof shall be kept in the office of the State Board.

SEC. 13. All land appraised and unsold shall be subject to lease, at an annual rental of ten per centum on the appraised value thereof. Agricultural lands shall be leased for terms of not more than five years, and in tracts not exceeding 160 acres in extent to any one person, company, or corporation. Grazing lands may be leased in tracts not exceeding 640 acres to any one person, company or corporation. Applications for lease shall be made to the county treasurer of the county wherein the lands desired to be leased are situated, and shall contain an affidavit that the applicant is not the owner of a lease of state lands of more than 160 acres, if agricultural land, and not more than 640 acres, if grazing land, including the amount applied for, and that he desires to lease for his own use and benefit. Applications for lease shall be accompanied by the amount of rental computed from the date of the application to the first day of January next ensuing. Rental after the first payment thereof, as above required, shall be due and payable annually, in advance, on the first day of January of each year.

SEC. 14. If two or more persons desire to lease the same tract of land the county treasurer shall, after at least five days notice to all parties who have made application to lease the same tract, auction off, at public auction to the person who, in addition to the ten per cent. on the appraised value will pay the highest premium for the said lease.

SEC. 15. When payments of rental, or of rental and premium are made, the county treasurer shall issue receipts in duplicate therefor, the "original" to be delivered to the lessee, and the "duplicate" delivered to the county auditor, and by that officer "countersigned," and transmitted to the State Board: Immediately after the issue of such re-

ceipts the county treasurer shall forward the application to the State Board, and upon the receipt by said Board of the application and the "countersigned duplicate receipt," said Board shall issue a lease to the applicant.

When application is made to lease lands on which there are improvements the person, other than the owner of the improvements, who is the highest bidder shall deposit with the county treasurer the appraised value of the improvements in addition to the payment of rental, or rental and premium by law required to be made, and the amount so deposited shall be paid to the owner of the improvements, or if such owner so elect he may remove the improvements, in which case the amount deposited shall be returned to the person by whom it was deposited.

SEC. 16. Each lease shall contain a covenant that the lessee will promptly pay the rental annually in advance; that no waste shall be committed on the land; and that the premises shall be surrendered at the expiration of the term of the lease, which shall be five years from and after the date thereof, or sooner, with the consent of the State Board; and that a failure to pay the agreed rental for a period of one month from the time such rental is due will work a forfeiture of said lease after notice as hereinafter provided. No lease shall be sub-let without the written consent of the State Board.

SEC. 17. Any lessee or purchaser or any assignee of any lessee or purchaser who is in default of rental or interest due the State for a period of one month after such rental or interest is due and payable shall be notified by the State Board by registered letter, of such default and if within one month after service of such notice such delinquent lessee, purchaser or assignee has not paid such rental or interest so delinquent his lease or contract of sale shall be forfeited; and such forfeiture shall be noted on the records of the State Board.

In case a notice of delinquency cannot be sent to any delinquent lessee, purchaser or assignee, as in this section provided, because the postoffice address of such delinquent is unknown to the State Board, then notice of such delinquency may be given by publication in a newspaper published in the county wherein the land is situated; and upon proof of the publication in such newspaper being made to the State Board the contract of sale or lease shall be forfeited the same as if service had been made by registered letter.

Any person whose lease or contract of sale has been forfeited may, however, redeem such forfeiture at any time before the land has again been sold or leased, by paying all arrears of rental or interest and ten per cent. penalty thereon, together with costs of publication if publication was made.

SEC. 18. All State lands not sold or leased shall be subject to lease as now provided by law, but rental for any lands leased need not be paid in advance but for any year may, at the option of the lessee, be paid at any time of the year for which rental is due not later than the last day of December, of such year. All persons occupying State lands, where such occupancy was commenced pursuant to a sale contract to such persons, shall have a first right to a lease of the tract so occupied at the minimum rental provided by law. *Provided*, That the State Land Board shall have power to lease State lands that are subdivided into less than forty (40) acre tracts, and: *Provided further*, that the State Land Board shall have

power to order reappraised, any State lands when, in the judgment of the said Board, the best interests of the State of Idaho would be served thereby.

SEC. 19. When in the opinion of the lessee, any lands leased to him required to be summer-fallowed, and he summer-fallows any part or the whole thereof, then for the year in which summer-fallowing is done no rental shall be charged for the acreage so summer-fallowed.

SEC. 20. On the last business day of each month county treasurers of counties wherein State lands have been sold or leased shall transmit to the State Treasurer all moneys received on account of such sales or leases, and shall at the same time forward to the State Auditor a statement of the amount of moneys transmitted. Such statement shall show the class and character of the lands sold or leased and the amount received for each. And any county treasurer withholding any money, the proceeds of the sale or rental of State lands for a period of five days beyond the time when the same should be transmitted to the State Treasurer shall be liable on his official bond for double the amount withheld. All sums recovered for a violation of this provision shall be paid into and become a part of the general school fund of the State.

SEC. 21. Persons appointed to appraise land as hereinbefore provided, if other than the regularly appointed selecting agents, shall each be allowed the sum of five dollars per day, and ten cents a mile for each mile necessarily and actually traveled in making appraisements.

The publisher of any advertisement or notice shall be allowed the fees fixed by law for publishing legal notices.

The members of the State Board or their agent shall be reimbursed their actual traveling expenses in making sales of lands and timber. County treasurers shall be allowed, as compensation for all services performed by them in connection with the sale and leasing of lands and timber, one per cent. on all funds, arising from such sales or leases, receipted for and transmitted to the State Treasurer.

SEC. 22. The State Board of Land Commissioners, under the provisions of this Act, shall meet on the second Wednesday of each month. The Governor shall be chairman and the Attorney-General secretary, thereof. They shall keep a record of their proceedings and of all orders made by them. No order shall be made except upon the concurrence of at least three members of the Board.

SEC. 23. The State Board shall, at their regular meetings, make the necessary orders for the investment or disposal of the funds derived from the sale of public lands of the State (except University lands) then in the State treasury. The proceeds of the sale and rental of public lands of the State (other than University lands), may be invested for and on account of the specific purpose for which the lands were granted, and shall be invested in United States bonds, State bonds, or in first mortgages on improved farms within the State: but no loan secured by mortgage on such improved land, shall exceed one-third of the market value of the land exclusive of improvements, given as security for such loan.

Whenever the State Board shall order the investment of any part of the general school fund; or of any permanent fund held for investment, said Board shall notify the State Auditor of such order, and the State Auditor shall draw a warrant for the amount stated in the notice in favor of the chairman and secretary of the Board, and the State Treasurer

shall pay such warrant out of the funds designated. The annual interest on all loans herein provided for shall be seven per cent.

SEC. 24. Any portion of the public lands of this State adjoining the site of any city or town may be subdivided into lots and sold as herein provided, the State Board being satisfied that by a subdivision of any tract into lots the sale of the same could be made for a greater amount than if sold in legal subdivisions as designated by United States surveys. The State Board shall have authority to employ the necessary surveyors to survey such tracts to be subdivided, into lots of such size as the State Board shall determine. A plat of the surveys so made shall be filed in the office of the county recorder of the county wherein the land is situated and a copy thereof, filed in the office of the State Board. Tracts so subdivided shall not be subject to lease, but each lot shall be sold at public auction at such times as the State Board may direct. The appraisement and sale of such subdivided lands shall be in all respects the same as in the case of other lands sold.

SEC. 25. The State Auditor shall charge each of the county treasurers in the State with the amount of money, rental and interest and principal separately, received from the sale or lease of lands in their respective counties, as shown by the "duplicate receipts" forwarded by the county auditors of the several counties, and upon presentation of the State Treasurer's receipt, shall credit the several county treasurers with the amount of the same.

SEC. 26. Lands sold under the provisions of this Act shall not be taxed until the right to a deed shall have become absolute, except for the value of the interest therein of the purchaser thereof, which interest shall be determined by the amount paid on such land and the amount invested in improvements on such lands.

SEC. 27. The State Board shall set apart and reserve from sale, such tracts of timber land and the timber thereon, at and near the sources of the rivers of the State, as may in the opinion of the Board be required to preserve the forests of the State and prevent a diminution of the flow of the said rivers.

SEC. 28. Every person who willfully and without authority enters upon the public lands of the State and cuts down, destroys or injures, any kind of wood or timber, standing or growing upon such lands, or who willfully and without authority carries away any kind of wood or timber lying on such lands is guilty of a misdemeanor.

SEC. 29. Every person who willfully and without authority enters upon the public lands of the State and cuts down, destroys or injures any kind of wood or timber growing upon such lands for the purpose of shipping, freighting, floating or otherwise transporting such wood or timber out of the State or who shall ship, freight or float, or otherwise transport out of the State any wood or timber cut upon the public lands of the State shall be guilty of a felony.

SEC. 30. The State Board shall have power to make all needful rules and regulations, not inconsistent with the provisions of this Act, for carrying the provisions of this Act into effect, and shall supply all records, books and papers that may be required for the purposes of this Act.

SEC. 31. The Secretary of the Board shall cause the State to be properly represented in all suits, actions, controversies or claims relating to State lands or timber before the several United States land offices in this

State, before the general land office in Washington, D. C., and before the courts of this State and of the United States: and may employ a competent attorney or attorneys for such purposes.

SEC. 32. An Act entitled "an Act defining the duties of the State Board of Land Commissioners to provide for the selection, location, protection, sale, rental and general management of the public lands of the State, and for the investment of funds arising from the sale and leasing of such lands, approved February 26, 1891, and all acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 33. An emergency existing therefor this Act shall be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 36.

AN ACT

DEFINING THE BOUNDARY LINE OF IDAHO COUNTY, AND PROVIDING FOR A SURVEY OF A PORTION OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The boundaries of the County of Idaho shall hereafter be as follows:

Commencing at the junction of Salmon river with Snake river; thence up the middle of the channel of Salmon river to the mouth of Deep creek; thence up the middle of the channel of Deep creek to the mouth of the Right Fork of Deep creek; thence up the middle of the channel of said Right Fork of Deep creek to the point where the line between ranges one (1) and two (2) west, of Boise meridian, crosses Deep creek; thence due north along said line to the point where said line crosses Willow creek; thence down the middle of the channel of Willow creek to its junction with Lawyers' canyon; thence down the middle of the channel of Lawyers' canyon to its junction with the Clearwater river; thence down the middle of the channel of Clearwater river to the mouth of Lolo creek; thence up the middle of the channel of Lolo creek to the head of Lolo creek, and thence in a direct line to the Lolo pass at the summit of the Bitter Root mountains; thence southeasterly and southerly following the present defined boundary line between the State of Idaho and Montana to the northwest corner of Lemhi County; thence south to the present line of Custer County; thence southwesterly along the present line between Idaho and Custer Counties to the present line of Boise County; thence along the present line between Idaho and Boise Counties to the east line of Washington County; thence along said line between Idaho and Washington Counties to the head of the falls at the lower end of Round valley; thence due west to Snake river; thence following the middle of the channel of Snake river to the place of beginning.

SEC. 2. That portion of the boundary line defined in section 1 of this Act between the head of Lolo creek and the Lolo pass of the Bitter Root mountains shall be surveyed and definitely located and marked by the surveyors of the counties of Idaho and Shoshone, acting jointly, under the direction of the respective boards of county commissioners, between the first day of August and the first day of October, 1891.

SEC. 3. The expenses incurred in such survey and determination shall be borne equally by the said counties of Shoshone and Idaho.

SEC. 4. Should either Idaho or Shoshone County fail, neglect or refuse to assist in making the survey provided for in section 2 of this Act, then the other county is hereby empowered to make such survey independently; and the county making such survey independently shall be entitled to recover one-half the amount of expenses incurred in such independent survey from the county so failing, neglecting or refusing, in any court of competent jurisdiction.

SEC. 5. All acts or parts of acts in conflict with this Act are hereby repealed.

SEC. 6. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 37.

AN ACT

TO PROVIDE FOR THE FILING OF TRANSCRIPTS OF THE JUDGMENTS IN THE FEDERAL COURTS IN THE COUNTIES OF THIS STATE, AND REGULATING THE FEES THEREFOR; FIXING THE LIEN THEREUNDER AND THE MANNER OF DISCHARGING THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Judgments in the district or circuit courts of the United States if rendered in this State, may be made liens upon the real estate owned by the defendant, and also upon all real estate he may subsequently acquire, the same as if obtained in the district court of the State, by filing an attested copy of the judgments in the office of the county recorder of the county in which the real estate is situated; and no lien shall attach to the lands or other realty in any county of this State until the date of filing such transcript, except in the county wherein the judgment was rendered, in which case the lien shall attach from the date of such rendition.

SEC. 2. The recorder shall, on the filing of such transcript in his office, immediately proceed to record and index the same in a separate book for that purpose, in the same manner as a judgment rendered in the court of his own county, and he shall be allowed to charge and receive the same fees as provided by law for like service.

SEC. 3. When the amount due on any judgment is paid off or satisfied in full, the plaintiff, or those legally acting for him, must acknowledge satisfaction thereof in the margin of the record of the judgment, or by the execution of an instrument in writing, referring to the judgment, and to have it duly acknowledged and filed in the office of the recorder of the county, in every county where the judgment is a lien. If he fails to do so within sixty days after having been requested in writing so to do, he shall forfeit to the defendant the sum of fifty dollars.

SEC. 4. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 38.

AN ACT

AUTHORIZING RAILROAD CORPORATIONS TO CONSTRUCT BRANCHES AND EXTENSIONS FROM THEIR RAILROADS AND FROM THE RAILROADS OF OTHER RAILROAD CORPORATIONS CONNECTING WITH OR USED IN CONNECTION WITH THEIR ROADS, AND TO CONSOLIDATE WITH OTHER RAILROAD CORPORATIONS AND TO LEASE, PURCHASE AND OPERATE THE RAILROADS OF OTHER RAILROAD CORPORATIONS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any railroad corporation chartered by or organized under the laws of this State, or of any State or Territory, or under the laws of the United States and authorized to do business in this State, may extend its railroad from any point named in its charter or articles of incorporation, or may build branch roads, either from any point on its line of road or from any point on the line of any other railroad connecting, or to be connected, with its road, the use of which other road between such points and the connection with its own road such corporation shall have secured by lease or agreement for a term of not less than ten years from its date. Before making any such extension, or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which said railroad is to be constructed, and the estimated length of such railroad, and the name of each county in this State through or into which it is constructed or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the Secretary of State, who shall indorse thereon the date of filing thereof and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch, and receive aid thereto, which it would have had if it had been authorized in its charter or articles of incorporation.

SEC. 2. Any such railroad corporation may consolidate its stock, franchises and property with any other railroad corporation, whether within or without the State, when such other railroad corporation does not own any competing line of railroad, upon such terms as may be agreed upon, and become one corporation, by any name selected, which, within this State, shall possess all the powers, franchises and immunities, including the right of further consolidation with other corporations under this section, and be subject to all the liabilities and restrictions such as such corporations peculiarly possess; or were subject to at the time of consolidation by the laws then in force applicable to them or either of them. Articles stating the terms of consolidation shall be approved by each corporation by a vote of the stockholders owning a majority of the stock, in person or by proxy, at the regular annual meeting thereof, or a special meeting called for that purpose in the manner provided by the by-laws of the respective consolidating corporations, or by the consent in writing of such stockholders annexed to such articles; and a copy thereof, with a copy of the records of such approval or such consent, and accompanied by lists of their stockholders and the numbers of shares held by each, duly certified by the respective presidents and secretaries, with the respective corporate seals of such corporations affixed, shall be filed for record in the office of [the] Secretary of State before any such consolidation shall have any validity or effect.

Any railroad corporation whose line is wholly or in part within this

State, whether chartered by or organized under the laws of this State, or of any other State or Territory, or of the United States, may lease or purchase and operate the whole or any part of the railroad of any other railroad corporation, together with the franchises, powers, immunities, and all other property or appurtenances appertaining thereto. And all such purchases or leases heretofore made or entered into are for all intents and purposes hereby ratified and confirmed: *Provided*, That in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, at the par value thereof, nor shall any bonds or other evidences of debt be issued as a consideration for or in connection with such consolidation.

SEC. 3. Any railroad corporation chartered by or organized under the laws of the United States, or of any State or Territory, whose constructed railroad shall reach or intersect the boundary line of this State at any point, may extend its railroad into the State from any such point or points to any place or places within this State, and may build branches from any point on such extension. Before making such extension, or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which such extension or branch is to be constructed and the estimated length of such extension or branch, and the name of each county in this State through or into which it is constructed or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the Secretary of State, who shall indorse thereon the date of filing thereof and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension, or build such branch, and receive such aid thereto as it would have had had it been authorized so to do by articles of incorporation duly filed in accordance with the laws of this State.

It shall be the duty of railroad companies, when intersecting or crossing any other railroads in this State, to so arrange their side tracks or switches that cars or freight may be readily transferred from one track to the other at the option of the shipper.

SEC. 4. This Act shall not apply to any corporation before such corporation shall have filed an acceptance of the provisions of the State Constitution, as provided in section 7, of article XI, of the Constitution.

SEC. 5. Nothing in this Act contained shall ever be so construed as to exempt any railway property from taxation.

SEC. 6. An emergency existing therefor, this Act shall be in force from and after its passage and approval by the Governor.

Approved on the 2nd day of February, 1899.

H. B. NO. 39.

AN ACT

TO PROVIDE FOR THE MANNER IN WHICH THE NAMES OF TOWNS, VILLAGES AND CITIES MAY BE CHANGED.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That whenever a majority of the legal voters of any incorporated town, village or city shall present a petition to the board of county commissioners of the county in which such town, village or city is situated, praying that a special election may be called in said town, village or city

for the purpose of voting on the question of changing the name of such town, village or city, and if such board, or a majority of the members thereof, shall be satisfied, by affidavit or other proof, that a majority of the legal voters of such town, village or city have signed such petition, it shall be the duty of such board to forthwith give notice of the filing of such petition, by publishing such notice in a newspaper published in said town, village or city, or, if there be no newspaper published in said town, village or city, then by publishing such notice in some other paper published in the county, or by posting said notice in three of the most public places in said town, village or city. Said notice shall contain the date when the same will be heard, which said date shall be not less than thirty days after the first meeting of the board of county commissioners after the filing of said notice, and said publication shall be made, or said notices posted, for not less than twenty days before such petition is acted upon by said board of county commissioners. At the hearing of said petition, if it shall satisfactorily appear to said board of county commissioners that said petition does contain the names, as signers thereto, of a majority of the legal voters of said town, village or city, and that the notice as herein required has been given, then it shall be the duty of said board of county commissioners to forthwith call a special election in said town, village or city for the purpose of submitting to the qualified electors thereof the question of changing the name of such town, village or city. Notice of the time and place of holding said election shall be given in the same manner and said election shall be conducted in all respects the same, as is provided by law relating to general elections for town and village purposes. The electors at said election shall designate, on their ballots, what name they desire said town, village or city shall take, and the name receiving a two-thirds vote of all the votes cast at said election shall become and remain the name of such town, village or city.

SEC. 2. It shall be the duty of the election board conducting such election to certify to the board of county commissioners the tally sheets used at such election, showing the votes cast, and the number of votes cast for each name voted for at such election.

SEC. 3. In case no name has received two-thirds of all the votes cast at such election, then said board of county commissioners shall forthwith call another election in the same manner as the first, which said election shall be conducted in the same manner as the first, and the name receiving a majority of the votes cast at such second election, shall become and remain the name of such town, village or city.

SEC. 4. It shall be the duty of the board of county commissioners, upon receiving the tally sheets and returns of such election, as provided in sections one and three of this Act, to enter upon their record an order changing the name of such town, village or city to the name selected by the voters of such town, village or city at such special election held as herein provided, and to make and file with the board of trustees of such town, village or city, and also with the county recorder of the county, a certified copy of the order made by such board of county commissioners in changing the name of such town, village or city.

SEC. 5. The cost and expenses of holding the election or elections, as in this Act provided, shall be paid by the town, village or city where such election is held.

SEC. 6. A change of name under the provisions of this Act shall not in any manner affect or alter any right of action, legal process or property.

SEC. 7. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 40.

AN ACT

TO REPEAL AN ACT OF THE FIFTEENTH SESSION OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF IDAHO, ENTITLED "AN ACT TO SUPPRESS AND PREVENT THE DISSEMINATION OF CONTAGIOUS OR INFECTIOUS DISEASES AMONG DOMESTIC ANIMALS, AND TO PROTECT STOCK OWNERS."

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That an act of the fifteenth session of the Legislative Assembly of the Territory of Idaho, entitled "an act to suppress and prevent the dissemination of contagious or infectious diseases among domestic animals, and to protect stock owners," be and the same is hereby repealed.

SEC. 2. An emergency existing therefor this Act shall take effect and be in force from and after its passage.

Approved the 2nd day of February, 1899.

H. B. NO. 41.

AN ACT

TO AUTHORIZE INDEPENDENT SCHOOL DISTRICTS TO ISSUE BONDS, TO REDEEM, FUND OR REFUND THEIR INDEBTEDNESS, AND TO PROVIDE AND IMPROVE SCHOOL HOUSES AND GROUNDS AND FURNITURE AND FIXTURES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That there be added to chapter eleven, of title three, of the political code, the following sections:

Section 737. The board of trustees of any independent school district, organized under any general or special law, may issue negotiable coupon bonds of their district for the purpose of paying, redeeming or refunding the principal of any of the outstanding bonded indebtedness of their district, whenever the same can be done to the profit or advantage of their district and without the district incurring any additional indebtedness or liability exceeding in any year the income or revenue provided for such year. Said bonds must bear interest at not exceeding six per centum per annum, payable semi-annually, at the office of the treasurer of the district, or at such banking house in the city of New York as may be designated by the board of trustees; and the principal of said bonds, or any part thereof, may, at the option of the district, be paid at any time after ten years, and must be paid within twenty years, from the time they are issued, and in the order in which they are issued and numbered. Semi-annual interest coupons, covering the interest to grow due, must be attached to each bond; the bonds must be signed by the presiding officer of the board and attested by its secretary and the seal of the district, if it have a seal, and the coupons must be signed and the bonds registered by the treasurer of the board. No bond shall be sold at less than its par value, and the proceeds thereof must be devoted to the payment, redemption or refunding of the outstanding bonded indebtedness of the district.

Section 738. The board of trustees of any such independent district may, whenever two-thirds of the board so decide, submit to the qualified electors of the district, at an election to be held for that purpose, and to be called and conducted as other school elections in said district, the question whether the board shall be authorized to issue the negotiable coupon bonds of the district in an amount to be mentioned in the notice of election, for the purposes of providing and improving school houses and grounds and furniture, apparatus, and fixtures for said district, or for any or either of said purposes; and if at such election two-thirds of the qualified electors of said district voting at said election assent thereto, the board of trustees may issue such bonds of the district to the amount and for the purpose designated in said notice; which bonds shall be in all respects similar to, and shall be signed, negotiated, registered, bear interest, and be made payable as provided in the last preceding section; and no bond shall be sold for less than its par value, and the proceeds thereof must be devoted to the purposes mentioned in said notice.

Section 739. The board of trustees of any such district that has issued bonds under either of the last two preceding sections must annually levy upon all the taxable property of the district, in addition to other authorized taxes, a tax sufficient to pay the interest on all bonds so issued as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time the bonds are issued; which taxes shall be levied, assessed, collected and paid over as other taxes are levied, assessed, collected and paid over in the district, and shall be devoted to the payment of the principal and interest of said bonds only; and the accumulated sinking fund may be used for the redemption of said bonds at any time after ten years from the date of their issue.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 2nd day of February, 1899.

H. B. NO. 42.

AN ACT

TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE SCHOOLS.

Be it enacted by the Legislature of the State of Idaho:

CHAPTER I.

SECTION 1. The Superintendent of Public Instruction, the Secretary of State, and the Attorney General shall constitute the State Board of Public Instruction, of which the Superintendent shall be president. The Board shall have power to appoint a secretary.

SEC. 2. The Board of Public Instruction shall meet at the capital on the first Monday of June and December of each year for the transaction of business and at such other times as its president shall direct; and shall have power to adopt rules and regulations, not inconsistent with the laws of this State for its own government.

SEC. 3. The State Board shall hold annually, at least two public examinations of teachers, at each of which examinations one member of the Board shall preside, assisted by such person or persons not to exceed two in number, as the Board may select, who shall receive for such services not to exceed five dollars per pay, and said Board shall keep a full

and correct record of its proceedings and a complete register of all persons to whom certificates are issued.

SEC. 4. Said Board shall issue State certificates and State diplomas to those persons only, who possess good moral character and who shall have passed a thorough examination in all the branches included in the course of study prescribed for the public schools of the State, didactics and such other branches as the Board may direct: *Provided*, That in no case shall a State certificate be granted unless the applicant has been successfully engaged in teaching for at least three years and can furnish the Board satisfactory evidence of his or her ability to instruct and properly manage any school in the State. Such certificate shall authorize the person to whom it is issued, to teach in any public school in the State for a term of five years from the date of its issue, unless sooner revoked by the State Board of Public Instruction: and *Provided further*, That in no case shall a State diploma be granted, unless the applicant has been successfully engaged in teaching for the term of at least five years, two of which shall have been in the State of Idaho and can furnish the Board satisfactory evidence of his ability to instruct and properly manage any public school in the State. Such diploma shall authorize the person, to whom it is issued, to teach in any public school of the State during the lifetime of the holder, unless revoked by the State Board of Public Instruction, *Provided*, The Board may issue certificates to persons holding State diplomas or State certificates from other states requiring similar qualifications.

SEC. 5. The State Board of Public Instruction shall have the power to revoke any State certificate or State diploma, for any cause of disqualification, which would have been sufficient ground for refusing to issue the same, had the cause existed or been known, at the time of its issue. *Provided*, That before revoking any such certificate or diploma, the holder thereof, shall have at least thirty days notice to appear before the State Board and show cause why such revocation should not be made.

CHAPTER II.

SEC. 6. Before entering upon the duties of his office the State Superintendent of Public Instruction shall take and subscribe to the oath, prescribed by the Constitution, and execute a bond in the penal sum of two thousand dollars, payable to the State of Idaho with sureties to be approved by the Governor, conditioned upon the faithful performance of his official duties, and the delivery to his successor of all books, papers, documents and other property belonging to the office. Said bond and oath shall be deposited with the Secretary of State.

SEC. 7. He shall have an office at the capital, where a seal shall be kept which shall be the official seal of the State Superintendent of Public Instruction, by which all his official acts may be authenticated, and all records, books, and papers appertaining to the business of this office. He shall file all papers, reports and public documents transmitted to him by the county superintendents of the several counties and hold the same in readiness to be exhibited to the Governor, or to any committee of any house of the Legislature, or any citizen of the State.

SEC. 8. He shall have general supervision of all the county superin-

tendents and of the public schools of the State, and shall prepare and prescribe a course of study for use in all such public schools.

SEC. 9. He shall prepare or cause to be prepared all examination questions to be used by the county superintendents of the several counties of the State in the examination of applicants for teachers' certificates, and shall prescribe the rules and regulations for the conducting of all such examinations.

SEC. 10. He shall prescribe rules and regulations for the holding of teachers' institutes, and, after consulting and advising with county superintendents, shall appoint assistant conductors therefor, when deemed necessary; and shall, as far as he shall find practicable, attend and assist at such institutes and aid and encourage generally, teachers in qualifying themselves for their duties.

SEC. 11. He shall meet the county superintendents of each judicial district, or of two or more districts combined, at such time and place as he shall appoint, giving them due notice of such meeting. The object of such meeting shall be to accumulate facts relative to schools, to compare views, to discuss principles, to hear discussions and suggestions appertaining to the examination and qualification of teachers, methods of instruction, institutes and all other matters embraced in the public school system.

SEC. 12. He shall prepare, have printed and furnished, through the county superintendents, to all officers charged with the administration of the laws relating to the public schools, and to teachers, such blank forms and books needed or required to be used in the discharge of their duties. He shall have the law relating to the public schools printed in pamphlet form and shall supply school officers, school libraries and State librarians with one copy each of such pamphlets; said printing to be paid for on the warrant of the Auditor out of the general fund on bills approved by the State Board of Examiners, and he shall on or before the first day of December in every year preceding that in which shall be held a regular session of the Legislature, report to the Governor the condition of the public schools, the amount of State school fund apportioned and sources from which derived, with such suggestions and recommendations relating to the affairs of his office as he may think proper. It shall be his duty to visit annually such counties of the State as most need his personal attendance, and all counties if practicable, for the purpose of inspecting the schools, awakening and guiding public sentiment in relation to the practical interests of education. And he shall open such correspondence as may enable him to obtain all necessary information relating to the system of public schools in other States; and he shall receive out of the State treasury for actual traveling expenses and other expenses while traveling on the business of the department, not exceeding seven hundred and fifty dollars per annum, for which he shall render an itemized bill to the State Board of Examiners; and all office fuel, furniture, books, postage, stationery and other contingent expenses pertaining to his office, shall be furnished in the same manner as those of the other departments of the State government.

CHAPTER III.

SEC. 13. Before entering upon the duties of his office, the county superintendent of public instruction shall take and subscribe the oath prescribed by the Constitution and execute a bond payable to the State of Idaho, with two or more sureties to be approved by the board of county

commissioners, in penalty of not less than one thousand dollars, to be increased at the discretion of said board, conditioned upon the faithful performance of his official duty and the delivery of all moneys and property received by him as such superintendent to his successor in office, which said bond shall be filed in the office of the county recorder.

SEC. 14. The county superintendent of public instruction shall have general supervision over all the public schools in his county. He shall visit every public school in his county at least once in each year, and oftener if he shall deem it necessary so to do. At such visits he shall carefully observe the methods employed by the teacher in giving instruction in the several branches taught, the manner of discipline and government, the classification and progress of the pupils. He shall advise and direct the teacher in regard to the course of study, the instruction and classification of the pupils, and make such suggestions in private to the teacher as he shall deem proper and necessary for the welfare of the school. He shall note the condition of the building, furniture, apparatus, grounds and appurtenances thereto belonging and report the same to the district board in writing, with such suggestions as he may consider necessary for the health, comfort and progress of the pupils.

SEC. 15. He may, in his discretion, require the trustees of any district to repair the school buildings or property, or to abate any nuisance in or about the premises, if such repair or abatement can be done for a sum not to exceed seventy-five dollars, *Provided* There is a sufficient amount of money in the treasury to the credit of the district. He may also in all cases, require the trustees to provide suitable out-houses; and in case the trustees fail to make such provision within a reasonable time, he may cause it to be done and draw an order for a warrant, as hereinafter provided, upon the county auditor for said expenses, who shall draw his warrant payable out of any money to the credit of such district.

SEC. 16. He shall keep a complete record of all his official acts; preserve all blanks, maps, charts and apparatus, sent him as such officer, and file all papers, reports, and statements from teachers and school boards; keep a register of all the teachers employed in his county, giving name of teacher, number of district, salary per month, grade of certificate and date of superintendent's visit. He shall obey the legal instructions of the State Superintendent and shall distribute to the proper officers and teachers, all blanks furnished him by the State Superintendent, used by such officers and teachers in the discharge of their official duties.

SEC. 17. He shall hold one regular public examination in each year for the purpose of examining all persons who may offer themselves as teachers in the public schools; said examination to be held in some suitable room at the county seat and commencing on the first Thursday of August and continuing not to exceed three days. And for a like purpose the said county superintendent shall hold not to exceed three special public examinations at such times and places as in his judgment the interests of the schools and teachers of the county shall require; *Provided*, That first grade certificates shall be granted only at the regular public examination: *And Provided further*, That it shall be the duty of the county superintendent to give at least fifteen days notice of such regular and special public examinations in some newspaper published in the county.

SEC. 18. He shall grant certificates to teachers in such form as the State Superintendent of Public Instruction shall prescribe, and to those

persons only who shall have attained the age of sixteen years who have attended the said public examination and shall be found to possess good moral character, thorough scholarship, and the ability to instruct and govern a school, but no certificate shall be granted to any person who shall not pass a satisfactory examination in orthography, reading, writing, grammar, arithmetic, geography, history of the United States, civil government, physiology, and hygiene, with particular reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system, theory and practice of teaching and so much of the general school law as relates to the duties and responsibilities of teaching. All certificates shall be signed by the county superintendent, and no person shall be considered a qualified teacher within the meaning of the school law, who has not a certificate granted by the said superintendent or other lawful authority. *Provided*, That all examination questions shall have been prepared as prescribed in section 9, chapter II of this Act, furnished under seal and opened before the applicants for certificates on the day of examination.

SEC. 19. The certificates issued by the county superintendents, subject to the rules and regulations prescribed by the State Superintendent, shall be of three grades, which grades are as follows: The certificate of the first grade shall be granted to those persons only who have successfully been engaged in teaching for at least one year, and it shall be valid throughout the State for a term of three years, from the date of its issue. *Provided*; That no first grade certificate shall be valid in any county other than that in which it was issued, unless a copy of said certificate be filed in the office of the county superintendent, in the county in which the holder thereof desires to teach. The certificate of the second grade shall be valid throughout the county for which it was issued, for a term of two years from the date of its issue. The certificate of the third grade shall be valid throughout the county for which it was issued for the term of one year from the date of its issue. *Provided*, That the county superintendent shall have power upon satisfactory evidence of competency to grant temporary certificates, which shall license the holder thereof to teach in a specified district for which it shall be granted and shall not continue in force beyond the next public examination: *Provided further*, That in case the holder of such temporary certificate does not appear for examination at the next public examination following the date of such temporary certificate, the county superintendent shall not issue a second temporary certificate, unless satisfactory evidence is furnished of the inability of such holder to attend the said examination by reason of sickness or other unavoidable cause.

SEC. 20. The county superintendent shall have power to revoke any teacher's certificate, other than those granted by the State Superintendent, for neglect of duty, for incompetency to instruct and govern a school, for immorality, or for any cause of disqualification which would have been sufficient ground for refusing to issue the same had the cause existed or been known at the time of its issue: *Provided*, That no certificate shall be revoked or annulled without a personal hearing, unless the holder thereof shall after reasonable notice, neglect or refuse to appear before the superintendent for that purpose.

SEC. 21. He shall keep a record of all certificates granted or revoked, showing to whom issued, age of grantee, date of issue, grade and duration of each certificate and if revoked, date and reason thereof.

SEC. 22. He shall on or before the first day of October in each year, make and transmit an annual report to the State Superintendent for the school year ending August 31st next preceding, which report shall contain an abstract of all the reports made to him by the district clerks of the several districts of the county together with such statistics, items and statements, relative to the schools of the county, as may be required and prescribed by the State Superintendent. Such reports shall be made upon and conform to the blanks furnished by the State Superintendent for that purpose. He shall inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the clerk of the board of county commissioners, and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting or incorrectly described, he shall report such fact to the board of county commissioners at their regular meeting in July, and such board shall immediately take such steps as are necessary to change, harmonize and clearly define them. The county superintendent, if he deem it necessary for the guidance of school census marshals, may order the description of the district boundaries printed in pamphlet forms and pay for the same out of the general fund.

SEC. 23. He shall appoint school trustees for all newly organized school districts, who will serve until the next regular school election, fill vacancies that may occur in the board of trustees by reason of death, removal from office or from the district, resignation or otherwise.

SEC. 24. He may call to his aid for the purpose of assisting in any public examination, any competent teacher or teachers, not to exceed two in number, who shall receive as compensation for such aid not to exceed four dollars per day each, to be paid out of the general school fund of the county when certified to by the county superintendent and presented to the county board of commissioners, who must draw a warrant for the same, in favor of such teacher or teachers. The county superintendent shall be allowed all necessary expenses incurred in the examination of teachers for blank books, stationery, etc., all expenses incurred in visiting the schools of his county, or in the attendance of any meeting of county superintendents, called by the State Superintendent, and the county commissioners must draw a warrant in his favor for such expenses, payable out of the current expense fund of the county.

SEC. 25. If for any cause the county superintendent is unable to attend to the duties of his office, he shall appoint a deputy, who shall take the usual oath of office and who may exercise all the functions of the county superintendent, but such deputy shall receive no salary from the public fund.

SEC. 26. The county superintendent of public instruction shall receive as compensation for services rendered his county as such superintendent a commission on the amount of all moneys apportioned by him to the general school districts of his county, as follows: On the first one thousand dollars, ten per centum, on all sums over one thousand dollars, and not exceeding five thousand dollars, four per centum; on all sums over five thousand dollars and not exceeding ten thousand, three per centum; and all sums over ten thousand dollars and not exceeding fifteen thousand dollars, two and one-half per centum; on all sums over fifteen thousand dollars two per centum. The county commissioners shall provide him with all necessary blank books, stationery, postage, expressage

and other expenses of his office, not otherwise provided for, which expense shall be paid out of the general expense fund of the county.

CHAPTER IV.

SEC. 27. The public school fund of the State shall consist of the proceeds of such lands as have hitherto been granted, or may hereafter be granted, to the State by the general government known as "school lands" and those granted in lieu of such. Lands acquired by gift or grant from any person or corporation under any law or grant, and of all other grants of land or money made to the State for general educational purposes, and all moneys accruing to the State from the estates of deceased persons.

SEC. 28. For the purpose of establishing and maintaining public schools in the several counties of the State the board of county commissioners of each county shall, at the time of levying the taxes for the State and county purposes, levy a tax of not less than five mills nor more than ten mills on each dollar of taxable property, in their respective counties, for school purposes. Said taxes must be assessed and collected in each county as other taxes for State and county purposes. For the further support of the public schools there shall be set apart by the county treasurer of each county and placed in the county school fund all moneys arising from fines, forfeitures or breaches, of any of the public penal laws of the State.

SEC. 29. The income of the State school fund and taxes collected by the State for the support of the public schools which shall be received up to the first day of January and the first day of July of each year shall be distributed semi-annually during said months respectively in each year among the several counties of the State from which reports have been received by the State Superintendent of Public Instruction, as provided in this Act, in proportion to the number of children of school age, as shown by the last school census list of each county, and the Superintendent of Public Instruction shall certify such apportionment to the State Auditor, and upon such certificate the Auditor shall draw his warrant in favor of the county treasurer of each county, for the amount due such county. The Superintendent shall also certify to the treasurer and superintendent of each county the amount apportioned to each county.

SEC. 30. The county superintendent shall require of the county treasurer, quarterly each year, a report of the amount of money on hand to the credit of the school fund of each county, not already apportioned, and the county treasurer shall furnish such report when so required. The county superintendent, upon receiving such report, shall proceed to apportion the public school moneys, both county and State, reported by the county treasurer to be in the county treasury among the several school districts in the following manner, to wit: One-third of the whole amount he shall divide equally among the several districts that have complied with the provisions of this Act. The remaining two-thirds of said whole amount he shall apportion per capita among the several districts in proportion to the number of children in each district, as shown by the last report of the census marshal of each district, and credit each district with the amount to which apportionment entitles it. *Provided*, That each district is entitled to one share in the apportionment of the first one-third, regardless of the number of children therein. Immediately after such apportionment he shall certify to the county treasurer

the amounts which are to be placed to the credit of each district, and notify the clerk of each district of the amount placed to the credit of his district.

SEC. 31. It is hereby made the duty of the county treasurer of each county, to keep a separate account with each school district in the county; to place to the credit of each, the amount of money certified to by the county superintendent as provided in this Act, and to pay over the money on legally drawn warrants or orders of the district officers entitled to draw the same: *Provided*, That if the county superintendent shall notify the county treasurer in writing, that there has been a failure upon the part of any board of trustees to comply with the law, and that said money shall be withheld from said board of trustees, he shall retain the same until further notice from the county superintendent.

All moneys that shall be finally forfeited by any district shall be put into the general school fund of the county, and be apportioned as other moneys. And it shall be the duty of said treasurer to receive and hold as special deposits all moneys belonging to the public school fund of his county in accordance with the provisions of this Act, and to pay them over only on the warrant of the county auditor: *Provided further*, That the said county treasurer shall pay over to the treasurer of any independent school district organized under the provisions of this Act, all moneys belonging to such district upon the presentation of an order from the clerk of the board of trustees of such district signed also by the chairman thereof, and countersigned by the county superintendent, and county auditor.

SEC. 32. It shall be the duty of the county superintendent in each county to keep a separate account with each school district in his county; to place to the credit of each district the amount apportioned by him as provided for in this Act; to countersign all legally-drawn warrants and orders of the district officers entitled to draw the same; to enter the same upon his books in proper form, giving date, number of such warrant, or order, to whom drawn, for what purpose, and the amount of the same. And further, it shall be the duty of the county superintendent to collect by process of law all penal fines not paid over by the justices of the peace, or other officers required by law to pay the same into the county treasurer; and the same may be collected and recovered by action at law, in which the State of Idaho, by the county superintendent, is plaintiff and the officer neglecting or refusing to pay over said moneys is defendant.

SEC. 33. It shall be the duty of the county auditor upon the presentation of any order from the clerk of the board of trustees of any school district in his county, said order also being signed by the chairman of the said board of trustees or in his absence, by the other member of the board, to draw his warrant upon the school fund standing to the credit of the said district in favor of the person mentioned in the said order: *Provided*, That in case of independent school district orders, he shall not draw his warrant, but countersign the warrant or order of said district officers: *Provided further*, That the said orders have been countersigned by the county superintendent, but in no case shall he issue a warrant, or countersign an order for a greater amount than there is cash in the treasury to the credit of said district.

SEC. 34. Each regularly organized school district in this State is hereby declared to be a body corporate by the name and style of school

district number in the county of State of Idaho; and in that name the trustees may sue and be sued, hold and convey property for the use and benefit of such district and make contracts the same as municipal corporations in this State.

SEC. 35. The board of county commissioners of the several counties of the State shall have power to create new districts from unorganized territory, or from old districts, to change the boundaries of any district heretofore established or to attach to one or more districts the territory included within the boundaries of any district which shall lapse by reason of the failure to comply with the provisions of this Act: *Provided*; That no district shall be formed from any territory or the boundaries of any district be changed, at any other time than at the regular quarterly meetings of the board; nor at that time, unless a petition for such new district or the change of boundaries is filed in the office of the county superintendent on or before the fifteenth day of the month preceding. If such petition is for a new district it must set forth the boundaries of the new district asked for and must be signed by the parents or guardians of at least ten children of school age who are residents of the proposed new district, and, if for a change of boundaries, such petition must set forth the change of boundaries desired and the reasons for the same, and must be signed by at least two-thirds of those who are heads of families and residents of the territory embraced within the limits of the tract to be stricken off or added to a district. *Provided further*, That two or more districts lying contiguous may upon a petition of the majority of the heads of families residing in each of said districts, be united to constitute one district: *Provided also*, That no district shall be hereafter divided for the purpose of forming a new district, unless it contains an area of more than nine square miles; nor shall a new district be divided, if by so doing the remainder of the district shall be found to contain less than fifteen persons of school age; nor shall any incorporated city or town hereafter be divided into two or more districts; *Provided further*, When it shall appear that a pupil living in one district can not attend school in his or her own district because of the distance of the school house and for other reasons, then when convenient, by an agreement of the trustees of the respective districts, he or she may attend a school in an adjoining district, and that district shall receive for said pupil's tuition from the said pupil's district such an amount as said pupil would be credited with in said pupil's own district.

SEC. 36. It shall be the duty of the county superintendent upon receipt of any petition as herein provided for, to immediately give notice to all parties interested by sending notice by registered mail to each of the trustees of the district to be affected by such change or changes; and cause printed notices to be posted in at least three public places in the districts so affected, one of which shall be on the door of the school house in said district for at least one week. Such notice must state the change or changes to be made in said district, that the said petition is on file in the office of the county superintendent and that the same will be presented to the board of county commissioners at its next regular meeting for final action. The superintendent must transmit the said petition to the said board with his approval or disapproval and, if he approve the same he may note such changes in boundaries as in his judgment shall be for the best interests of all parties concerned.

SEC. 37. The board of county commissioners must at its next regular meeting act upon the same. If such petition be granted it may be in accordance with the original prayer or with such modifications as it may choose to make.

SEC. 38. A joint school district may be formed from territory belonging to two or more contiguous counties. For the purpose of organizing a joint district the same preliminary steps must be taken, and the same course be pursued, as is pursued in the organization of other districts, as provided in sections 35 and 36 of this Act. Such district shall be designated as 'Joint district No. — of the counties of — and be so numbered that it shall have the same number in all the counties from which it was formed. The petition required by section 35 shall be made to each county superintendent interested *Provided*, That the school census, the record of attendance at school, the assessing of property, the collection of taxes, and all acts which from their nature shall be separately kept, shall be kept and done, and the report thereof made as if each portion of said joint district were an entire district in the respective counties. The teacher of such joint district shall not be required to hold a certificate in both counties.

SEC. 39. All new districts formed of unorganized territory shall be entitled to their just proportion of school moneys at the next apportionment and the county superintendent shall place the same to the credit of such district: *Provided*, That in no case shall such district be entitled to use the same unless school has actually been commenced therein and six months shall not have elapsed since the date of its organization *Provided further*, If any new district is organized from any part of any other organized district or districts, as provided in this Act, the county superintendent, after having ascertained the amount of moneys belonging to said old district or districts and deducting said indebtedness and liabilities, must apportion to said new district its due per capita proportion of money or indebtedness, as the case may be, from said districts from which it may be formed. And in case of joint districts the county superintendent must apportion to such district such proportion of the school money to which such district is entitled, as the number of school children residing in that portion of the district situated in his county bears to the whole number of school census children in the whole district.

SEC. 40. If any school district shall, for the period of one year, fail to maintain a school for a term of at least three consecutive months or keep up its organization of officers, as required by law, or if there has been an average attendance for three consecutive months of only five pupils, or less, such district shall lapse, and the moneys in the treasury of the county belonging thereto shall be apportioned by the county superintendent among the other districts in the same manner as other school moneys are apportioned. The property of any school district that shall lapse, shall be sold by the county superintendent in such manner as he shall deem best. The proceeds of such sale, after the payment of any indebtedness of the said district, shall be placed to the credit of the general school fund.

The territory included within the boundaries of the said district shall, by order of the board of county commissioners, be attached to one or more school districts.

CHAPTER VI.

SEC. 41. At the next regular school election, following the passage of

this Act there must be elected a board of trustees consisting of three in number, one of whom must hold office for three years one for two years, and one for one year and the ballots must designate the length of time which said trustees are to serve. At the second and every subsequent school election there must be elected one trustee for the term of three years; immediately after their election they must elect from their number a chairman and clerk.

SEC. 42. The regular election for electing members of the board of school trustees shall be held annually in each district on the first Monday in June at which time it shall be lawful to transact any business pertaining to schools and school interests. The clerk of said board of trustees shall cause printed or written notices to be posted, specifying the time and place of holding such election, and the time during which the ballot box shall be kept open, not less however than three hours, and further specifying at what hour other business shall be transacted. Said notice shall be posted in three public places in the district, one of which shall be the school house if there be one, at least ten days previous to such time of election.

If the clerk fail to give such notice, then any two legal voters residing in the district may give such notice over their own names, and such election may be held after the day fixed in this Act for such election. All elections shall be by ballot, the polls shall be opened by one of the board of trustees, or by any qualified elector if no trustee be present at the time specified in the notice. If no time is specified in the notice then the polls shall be opened at one o'clock p. m. and closed at five o'clock p. m. of the same day. Said election shall be conducted as any other county elections, except that one judge and one clerk may constitute a board of election, and any trustee may administer the oath to said judge and clerk. Said judge and clerk shall make return of such election to the county superintendent immediately, which return shall be filed in the office of the county superintendent: *Provided further*, That it shall be lawful at such annual meeting and election on said first Monday in June to vote upon the question of whether or not any special tax shall be levied for any purpose, such as building or repairing school houses, or for the support of public schools in the district; said meeting may first decide the rate to be levied, not to exceed ten mills on the dollar of taxable property, then proceed to ballot, on which ballot shall be written or printed "tax yes" or "tax no" and none but actual resident freeholders and heads of families of said districts shall vote at such election. A separate ballot box shall be used for voting on any question of taxation or other business concerning schools and school interests from that used in voting for trustees. If a majority of the votes polled at such election are in favor of a tax, the board of trustees must immediately make such levy and certify the fact, the date thereof and the rate of tax levied, the year for which levied and the number of the district to the clerk of the board of county commissioners and the county assessor, but not more than one such special tax can be levied in any one year.

SEC. 43. Upon receiving such statement from the trustees of any school district the assessor must assess upon all property in the district subject to taxation the tax so levied and certified to him as aforesaid; but for that purpose he is not required to take new statements from the owners of property, but his assessment of all special taxes so levied may be computed and

made upon the valuation of property as fixed by the board of equalization for State and county purposes, and as appears upon the assessment roll in the same year; said special taxes so levied as aforesaid shall become a lien upon the property so assessed from the date of assessment, and shall be due and payable at the same time as State and county taxes, and in all respects are to be collected, in the same way, except that the assessor must keep a separate list or assessment roll thereof, and when paid must be named in his receipt to the taxpayer as a separate item, and he must pay them to the county treasurer as he pays other taxes; but at the time of payment he must specify to the treasurer what taxes they are, and take a separate receipt therefor and keep separate accounts thereof.

The assessor shall receive two per centum on all such special taxes so collected by him, having first rendered his account thereof to, and the same being allowed by the board of county commissioners, and shall be paid out of said special tax. The board of county commissioners shall furnish the assessor with such blanks as are needed to comply with the provisions hereof. The provision of this Act for the levy and collection of taxes shall not apply to independent districts now established, which have special laws for the collection of school taxes.

SEC. 44. The regular meeting of the board of trustees shall be held on the last Saturday of March, June, September and December. The board may, however, hold other special or adjourned meetings, as they may from time to time determine.

SEC. 45. It shall be the duty of the trustees of each district to employ teachers, on a written contract, and to discharge the same, and to fix, allow and order paid their salaries and compensation and the compensation of the clerk of the board, and to determine the rate of tuition of non-resident pupils, and they shall have power to discharge any teacher for any neglect of duty, or any cause that, in their opinion, renders the service of such teacher unprofitable to the district, but no teacher shall be discharged before the end of his term, without a reasonable hearing. Any two of said trustees shall constitute a quorum for the transaction of business.

The trustees shall have charge of all school property in their district, and have power to receive in trust all real estate or other property conveyed to said school district, and to convey by deed, duly executed or delivered, all the estate or interest of their district in any school house or site directed to be sold by a vote of their district; and all conveyance made to said board must be made in their corporate name. To trustees of school district number _____ county _____ State of Idaho. Said trustees have further power when directed by a vote of their district, to purchase, receive, hold and convey real and personal property for school purposes, and to hold, purchase and repair school houses and to supply the same with necessary furniture and to fix the location of school houses: *Provided* That no trustee shall be pecuniarily interested in any contract made by the board of trustees of which he is a member, and any contract made in violation of this section is null and void. The trustees of the respective districts must furnish all things, not herein otherwise provided for, necessary for the use and comfort of the schools in their district, such as fuel, improvements, maps, apparatus, and library, and for such purpose may audit and allow accounts against the school fund of their district, not to exceed twenty-five per cent of the

amount of such school fund in any one year. *Provided further*, That the trustees shall not draw an order for a warrant in excess of the amount to the credit of the district at the time the order is given. The trustees of each district must make a full report in writing annually, on the first day in September, to the county superintendent of their county, on blanks furnished, relating to all matters pertaining to schools as may be required of them by the State or county superintendent.

It is the duty of the trustees of the respective districts on receiving a report from any teacher of the disorderly conduct of any pupil, to decide how said insubordinate pupil shall be punished, or whether he or she be dismissed from school, and the teacher must enforce the decision so made.

The clerk of the board of trustees must, on the first Monday of July of each year, proceed to enumerate the children of school age in his district, and he must not enumerate any except bona fide residents thereof, and the board of trustees must cause a true and certified copy of said census to be transmitted to the county superintendent.

School age as herein used is defined as all persons between the age of five and twenty-one years. For said service said clerk shall be allowed as full compensation therefor, five cents for each child so enumerated, and the chairman of the board of trustees shall draw his order upon the county auditor, which must be countersigned by at least one other member of the board of said district for the amount so allowed, and it must be charged against and paid out of the fund of said county.

SEC. 46. Trustees must qualify within fifteen days after receiving notice of their election, by taking the official oath, which oath may be administered by either of the other trustees or the retiring trustee, and said oath shall be subscribed and filed in the office of the county superintendent.

SEC. 47. Teachers of the public schools must be furnished with a school register by the trustees of the district, for the purpose of registering the names of their pupils and their daily attendance at schools, and at the close of the term said register must be delivered to the clerk of the board of trustees of the district: And the teacher must also be furnished with a blank report by said trustees, which report said teacher must fill up according to the heading of same and transmit it to the county superintendent of the county at the close of the term, and no teacher shall be allowed an order in excess of ninety per cent of his or her salary until said report is so made out and transmitted.

SEC. 48. Every teacher in the public schools must enforce the course of study, the use of the text books and the rules and regulations prescribed for schools by the State Superintendent; hold pupils to a strict account for disorderly conduct on the way to and from school, and on the play grounds and during recess; suspend for good cause any pupil in the school and report such suspension to the board of trustees for review. If such action is not sustained by the board, the teacher may appeal to the county superintendent, whose decision shall be final. He or she shall make reports in addition to those heretofore mentioned as may be required by the Superintendent of Public Instruction of the State, or county or board of trustees; endeavor to impress upon the minds of the pupils the principles of morality, truth, justice and patriotism, and teach them to avoid idleness, profanity and falsehood.

SEC. 49. No teacher shall be entitled to, or receive any compensation for the time he or she teaches in any public school without a certificate valid or in force for such time in the county where such school is taught, except that if a teacher's certificate shall expire by its own limitation within six weeks of the close of the term, such teacher may finish such term without re-examination or renewal of his or her certificate.

SEC. 50. Every parent, guardian or other person in the State of Idaho having control of a child or children between the ages of eight and fourteen years shall be required to send such child or children to a public school for a period of twelve weeks in each school year, at least eight weeks of which shall be consecutive, unless such child or children are excused from such attendance by the board of school trustees of the school district in which such parents or guardians reside, upon it being shown to their satisfaction that the bodily or mental condition of such children has been such as to prevent his, her or their attendance at school, or application at study for the period required, or that such child or children are taught in a private school or at home, in such branches as are usually taught in a primary school, or have already acquired the ordinary branches of learning taught in the public schools. *Provided*, In case a public school shall not be taught for a period of twelve weeks, during the year, within three miles by the nearest traveled road of the residence of any such parent or guardian within the school district, he or she shall not be liable to the provisions of this Act.

FIRST—It shall be the duty of the board of school trustees of each district in this State, on or before the first Monday in September in each year, to furnish the principal in each public school taught in such district with a list of all children in the school district between the ages of eight and fourteen years, said list to be taken from the report of the school census marshal.

At the beginning of each school month thereafter it shall be the duty of the principal of each school in such district to report to the board of school trustees of such district the names of all children attending school during the previous school month, when it shall appear, at the expiration of three school months, to the board of school trustees that any parent, guardian or other person having charge or control of any child or children shall have failed to comply with the provisions of this Act, the board shall cause demand to be made upon such parent, guardian or other person for the amount of the penalty hereinafter provided when, if such parent, guardian or person shall neglect or refuse to pay the same within five days after the making of said demand, the board shall commence proceedings in the name of the school district for the recovery of the fine hereinafter provided before any court having jurisdiction: *Provided*, That nothing in subdivision I shall apply to any child or children who are actually and necessarily compelled to labor for the support of a parent or parents.

SECOND—Any parent, guardian or other person having control or charge of any child or children, failing to comply with the provisions of this Act, shall be liable to a fine of not less than five dollars nor more than twenty-five dollars for the first offense, nor less than ten dollars, nor more than fifty dollars for the second and each subsequent offense, beside the cost of collection.

THIRD—All fines collected under the provisions of this Act shall be paid

into the county treasury, the same to be placed to the credit of the school district collecting the same.

FOURTH—The board of school trustees in each district shall cause to be posted annually, in three public places in the district, notices of the requirements and penalties of this law.

CHAPTER VIII.

SEC. 51. The county superintendent in any county in this State containing ten or more organized school districts may, when he believes that the educational interests of his county would be promoted thereby, hold annually a teachers institute at such time as he may designate, and such institute must continue in session not less than five or more than ten days. He must give at least ten days notice of the time and place of holding such institute by publication in some newspaper published in the county (if there be one), if not, by a written notice to each qualified teacher in the county.

SEC. 52. It is the duty of all teachers engaged in the county, and of all persons holding certificates, to attend such institutes and participate in the exercises thereof, and all teachers who may have charge of schools at the time of holding the annual institute must adjourn their school for the time during which the institute is held.

SEC. 53. All teachers who may adjourn school for the purpose of attending any annual institute must be allowed the same pay while in actual attendance as when teaching, and the county superintendent must certify to the number of days attendance of each teacher, and the trustees of the several districts must count them as so many days lawfully employed.

SEC. 54. The county superintendent must provide a building, lights, stationery, janitor service and all things necessary for the holding of the institute; and must present an itemized account of such expenses, not to exceed one hundred and fifty dollars, to the board of county commissioners, and it must be paid from the current expense fund of the county.

CHAPTER IX.

SEC. 55. The Governor is hereby authorized and empowered to appoint four persons, one of whom shall be the State Superintendent of Public Instruction, who at the time of their appointment shall be engaged in educational work in the State, and who, together with the president of the university of Idaho, shall constitute a State Board of Text Book Commissioners, and of which board the said president of the university shall be chairman, who shall hold office until they shall have complied with the duties hereinafter imposed.

SEC. 56. The said Board of Text Book Commissioners shall meet at the State capital, in the Senate chamber, on the second Monday of May, 1893, for the purpose of selecting and adopting a uniform series of text books for use in all the public schools of the State. Said Board shall have power to formulate rules for its own government and three members thereof shall constitute a quorum.

SEC. 57. Immediately upon the approval of this Act, the Superintendent of Public Instruction shall advertise, for at least thirty days, in two daily newspapers published in the State, giving notice that the said Board of Text Book Commissioners will meet as herein aforesaid, and receive sealed proposals up to twelve o'clock noon of said day, for supplying the State of Idaho with a uniform series of text books for use in all the public schools of said State, for a term of six years from and after the first day of

September, 1893, in the following branches, namely; spelling, reading, writing, arithmetic, geography, grammar, physiology and hygiene, civil government, history of the United States, and in all other branches taught in the common, graded and high schools of the State. Said sealed proposals shall be addressed to the president of the State Board of Text Book Commissioners, Boise City, Idaho, and shall be endorsed "sealed proposals for supplying the State of Idaho with school text books." Said proposals shall state the price at which said text books will be delivered f. o. b. cars subject to order of the State Superintendent of Public Instruction.

SEC. 58. It shall be the duty of the said Board of Text Book Commissioners to meet at the time and place mentioned in said notice and open said sealed proposals in the presence of a majority of said Board and in public, and to select and adopt such text books for use in the public schools as in their opinion will best subserve the educational interests of the State. The series of text books so selected and adopted by the said Board of Text Book Commissioners, shall be certified to by the chairman, and said certificate with a copy of all books named therein must be placed on file in the office of the State Superintendent of Public Instruction. Such certificate must contain a complete list of all the books adopted by the said Board, giving price for which each kind and grade will be furnished, and the name of the publisher agreeing to furnish the same. The said books named in the said certificate shall, for a period of six years from and after the first day of September, 1893, be used in all the public schools throughout the State, to the exclusion of all others.

SEC. 59. The said Board of Text Book Commissioners shall have power to make such contracts and agreements with publishers as they shall deem necessary for the best interests of all the public schools in the State, and shall require of all publishers contracting and agreeing to furnish books adopted by the said Commissioners, bonds in double the amount of the value of the books to be furnished, for the faithful performance of the conditions of the said contract.

SEC. 60. Immediately after the filing of the said certificate in his office, the State Superintendent of Public Instruction shall have prepared printed lists of the text books adopted by the said Board, with the price of each of said books, as certified to in the said certificate, and shall forward the same to the county superintendents of the several counties of the State, who shall immediately forward one list to each of the trustees of all districts in his county. Not later than the third Monday of June, 1893, and at such other times thereafter as may be necessary to properly supply the schools of said district, the chairman of each of the several boards of trustees of the county, shall forward to the county superintendent of his county, a list of the kind of books and the number of each kind, which will be required to supply the pupils of the public schools of his district. Abstracts of such lists showing the kinds of books and the number of each kind so forwarded shall be prepared by the county superintendent and transmitted to the State Superintendent without delay, who shall order the same to be delivered by the contracting publishers of said text books, and he shall, upon the receipt thereof, forward the same to the said county superintendents for distribution among the several districts of their respective counties.

SEC. 61. The trustees of every district in the State shall purchase at the expense of such district in the manner heretofore provided, all text

books used in the public schools of their respective districts and shall immediately upon receipt thereof draw an order for a warrant in favor of the county superintendent of their county for the payment of said books, which said warrant shall be forwarded to the State Treasurer and shall be paid out of any money standing to the credit of the said district. In case there is not a sufficient amount in the treasury to the credit of any district at the time of receiving the books, the payment must be made out of the money appropriated by this chapter and charged to said district and refunded out of the first money placed to the credit of said district. The clerk of the board of trustees is hereby made the custodian of said books and all distributions thereof shall be under his supervision and control and may be either loaned to the pupils of said public schools free of charge, subject to the rules and regulations as to the care and custody prescribed by the State Superintendent, and such additional rules as the clerk of said district board may see fit to make, or they may be sold at cost to any of the pupils of such school district for cash only. Said clerk shall keep a strict record of all books so sold or loaned giving name of purchaser or borrower, description, condition and amount received therefor, and shall deposit the same at the close of each month with the county treasurer of the county in which the district is located to the credit of such district, and take his receipt therefor.

SEC. 62. The State Superintendent of Public Instruction shall have control and supervision over the distribution and shipment of all books contracted for by the State Board of Text Book Commissioners, but all payments made to the county superintendents for the purchase of school text books, by the several districts, must be forwarded to the State Treasurer, who shall have charge of the settlement of all accounts with the publishers, contracting with the said Board of Commissioners to furnish the said books, for books ordered and received for use in the public schools throughout the State, and shall pay for the same upon the bills being audited and allowed by the State Board of Examiners. And it shall be unlawful for the trustees of any district in the State to purchase for the use in the public schools, any other series of text books other than those adopted by the said Board of Text Book Commissioners. All orders for books must be made upon the State Superintendent, through the county superintendent of the county in which said district is situated.

SEC. 63. The said Board of Text Book Commissioners shall receive each, the sum of five dollars per day for each day necessarily engaged in transacting business, while in session and ten cents per mile each way for each mile necessarily traveled.

SEC. 64. There is hereby appropriated the sum of one thousand dollars, or so much thereof as may be necessary, to carry out the provisions of this Act. And the additional sum of two thousand dollars for clerical assistance and labor in the office of the State Superintendent of Public Instruction for the ensuing two years. And the further sum of twenty thousand dollars is appropriated and set aside as a revolving text book fund to meet the payments for text books of districts having no money to their credit.

SEC. 65. No books, papers, tracts or documents of a political, sectarian or denominational character must be used or introduced in any school established under the provisions of this Act, and any and every political,

sectarian or denominational doctrine is hereby expressly forbidden to be taught therein; nor shall any teacher or any district receive any of the public school moneys in which the schools have not been taught in accordance with the provisions of this Act.

SEC. 66. Trustees may determine whether pupils outside of their district may attend school in such district and upon what terms.

SEC. 67. The school year within this State shall commence on the first Monday in September in each year. A school month is four weeks, of five school days.

SEC. 68. If the county superintendent fails to make a full and correct report to the State Superintendent of Public Instruction, of all statements required by the law to be made, he forfeits the sum of one hundred dollars from any moneys due him from the county, and the board of county commissioners are hereby authorized and required to deduct therefrom the sum aforesaid, upon information from the State Superintendent of Public Instruction that such reports have not been made.

CHAPTER X.

SEC. 69. The board of school trustees of any school district may, whenever a majority so decide, submit to the electors who are residents, freeholders or heads of families of the district, the question whether the board be authorized to issue coupon bonds to a certain amount, not to exceed four per cent of the taxable property in said district, and bearing a certain rate of interest, not exceeding eight per centum per annum, and payable and redeemable at a certain time, for the purpose of building or providing a school house in said district with all necessary furniture, as desks, blackboards, globes, charts, outline maps etc., and the board of school trustees of any school district, which has issued bonds for any of the purposes enumerated in this section, may submit to the electors of such district the question whether the board shall be authorized to issue coupon bonds to refund or take up any of the bonded indebtedness of such district, at a rate of interest not exceeding eight per centum per annum.

SEC. 70. Such elections must be held in the manner prescribed for elections in this Act. The ballots must contain the words "bonds yes" or "bonds no." If two-thirds of the votes cast at such election are "bonds yes" the board of trustees must issue such bonds in such forms as the board may direct; they must bear the signature of the chairman of the board of trustees and be countersigned by the clerk of the school district, and the coupons attached to the bonds must be signed by said chairman and said clerk; and each bond so issued must be registered by the county treasurer in a book provided for that purpose, which must show the number and amount of each bond and the person to whom the same is issued, and the said bonds must be sold by the said school trustees as hereinafter provided.

SEC. 71. The school trustees must give notice in some newspaper published in the State, for a period of not less than four weeks, to the effect that said school trustees will sell said bonds, briefly describing the same, and stating the time when, and the place where said sale will take place. *Provided*, That the said bonds must not be sold for less than their par value, and the trustees are authorized to reject any bids and to sell said bonds at private sale if they deem it for the best interest of the

district, and all money arising from the sale of said bonds must be paid forthwith into the treasury of the county in which said district may be located, to the credit of said district, and the same are immediately available for any of the purposes authorized by this chapter.

SEC. 72. The faith of each school district is solemnly pledged for the payment of the interest and the redemption of the principal of all bonds, which are issued under this Act. And for the purpose or enforcing the provisions of this Act, each school district is a body corporate, and may sue and be sued by or in the name of the board of school trustees of said district.

SEC. 73. The school trustees of each district must ascertain and levy annually the tax necessary to pay the interest as it becomes due and a sinking fund to redeem the bonds at their maturity, and said tax is a lien upon the property of said school district and must be collected in the same manner as other taxes for school purposes. *Provided*, That the said sinking fund, may at the discretion of the board, be loaned on first mortgage or improved farm lands, but no loan shall exceed one-third of the market value of the land, exclusive of the improvements thereon, given as security for such loans. The annual interest on all loans herein provided for shall be seven per cent, or may be invested in U. S. bonds, State bonds, county bonds, county or State warrants, when the market value thereof is not below par, at the discretion of said board.

SEC. 74. When the sum in the sinking fund equal or exceeds the amount of any bond then due, the county treasurer shall post in his office a notice that he will, within thirty days from the date of such notice, redeem the bonds then payable, giving the number thereof; and preference must be given to the oldest issue; and if at the expiration of the said thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon must cease; but the treasurer shall at all times thereafter be ready to redeem the same on presentation, and when any bonds are so purchased or redeemed the county treasurer must cancel the same by writing across the face of each bond, in red ink, the word "redeemed," and date of such redemption.

SEC. 75. The county treasurer must pay out of any moneys belonging to a school district, the interest upon any bonds issued under this chapter by such school district when the same becomes due, upon the presentation at his office of the proper coupon, which must show the amount due and the number of the bond to which it belonged; and all coupons so paid must be reported to the school trustees at the first meeting thereafter.

SEC. 76. The school trustees of any district must cause to be printed or lithographed at the lowest rates, suitable bonds, with the coupons attached, when the same becomes necessary, and pay therefor out of any moneys in the county treasury to the credit of the school district.

SEC. 77. If any of the school trustees fraudulently fail or refuse to pay, into the proper county treasury, the money arising from the sale of any bonds provided for by this Act, they are guilty of a felony.

SEC. 78. Whenever any school district within this State, as defined by the board of county commissioners, has within its limits taxable property of the amount of one hundred and fifty thousand dollars or over, as shown by the last assessment roll for the county, it may be organized into an independent school district upon a vote of one-fifth or over of

those within the district who are qualified to vote at school elections, petitioning the said board for the establishing of such district as an independent school district; and if a greater number of such qualified voters, do not remonstrate against such establishment, the board must clearly, by its order of record, define the boundaries of such district, if not already done, and within one month, order that the question of so establishing such independent school district must be submitted to a vote of all the electors of the district, who, under the provisions of this Act, are authorized to vote for the levy of taxes and issue of bonds, and must make the necessary arrangements for such election, giving at least twenty days notice thereof, and the time and place of holding the same. If a majority of those so voting, vote in favor of so organizing such independent district, said board must make its order of record and declare such district established, and designate it as the independent school district, (state name and number of district) in ——— County, Idaho.

SEC. 79. The district so established is constituted a body corporate and succeeds to the title of all property rights and privileges, and assumes and must discharge and pay all debts, obligations and duties belonging to or devolving upon the old district or districts of which it is so formed and established, and by its corporate name it may:

FIRST. Make contracts, sue and be sued.

SECOND. Take, hold and convey such real and personal property only as is needed for actual school purposes.

THIRD. To have a corporate seal.

FOURTH. To choose such officers as are herein provided for.

SEC. 80. The officers of such district consist of a board of trustees, composed of six qualified electors, who are resident freeholders within the district. The first board of trustees must be appointed by the board of county commissioners immediately after the district is so established, and hold their offices for terms as follows, to wit: Two until the next school election under the provisions hereof; two for two, and two for four years after such election and until their successors are elected and qualified, and said board so appointing must designate the term of each trustee so appointed.

SEC. 81. There must be an election for two members of the board of trustees to be held on the first Monday of September following the establishment of such district, and biennially thereafter an election must be held to elect two trustees. The clerk of the board must give at least ten days' notice of the time and place of such election, by publication in a newspaper, or by three posted notices in the district, and at all elections under this chapter voters must have the same qualifications prescribed by this title for school elections. At such elections any person offering to vote may be challenged and required to take all oaths required of voters at general elections in this State; and on refusing to take such oaths, must not be allowed to vote, and the board of trustees may appoint for all such elections two judges and one clerk. Voting must be by ballot, and if upon counting the ballots there is a tie and three qualified persons have the highest and an equal number of votes, the board of trustees must select two from the three, and when there is a failure to elect by reason of a tie vote the board of trustees must select. If any trustee dies, removes from the district or ceases to have the qualifications for such office, or from any cause his office is vacant, or he neglects or re-

fuses to act, or without excuse ceases to attend the meetings of the board for four successive regular meetings thereof, his office thereby becomes vacant, and a majority of said board of trustees may appoint another qualified person to fill his unexpired term.

SEC. 82. No trustee must be interested in any contract let or made by or with the board, or with any officer thereof, or in any supplies furnished to or for said district, or a surety for the performance of any contract with said board or district, or the agent or partner of any contractor with said board or district; and no action can be maintained or recovery had against said board or district upon any contract or obligation in which any trustee is so interested, but the same is void. Each trustee must, before entering upon the duties of his office, take and subscribe the official oath, which must be filed with the county school superintendent and immediately after the appointment of such trustees by the board of county commissioners, as above provided, and after each biennial election, the trustees, or a majority thereof, must meet at the school house and organize as a board, and from their number must select a chairman, a clerk and a treasurer, or they may elect as treasurer some competent and responsible person who is not a trustee. No school officer whatever must receive any pay or compensation for his time or services or in any way be allowed to make any pecuniary profit or gain by reason of his office; and any school officer or person who has the custody in any way of any school funds must give bonds, with at least two good sureties, in double the amount of funds likely at any time to be in his custody.

SEC. 83. Regular meetings of the board of trustees must be held on the second Monday of each month, and special meetings may be called by the chairman of the board, or by any two trustees, by personal notice of the time and place of such meetings to each member of the board, or, if he cannot be found, by leaving such notice at his place of residence with some person of suitable age and discretion. Four trustees constitute a quorum for the transaction of any business, but a less number may adjourn any regular meeting from time to time, until a quorum can be obtained; but no meeting of the board, not provided for by the rules or by law, is legal unless all the members thereof have been notified as provided for in this section.

SEC. 84. The board of trustees of said district must have power to and it is their duty—

FIRST—To make such by-laws for their own government and for the government of the schools of the district as they may deem expedient, not inconsistent with the provisions of this chapter.

SECOND—To employ or discharge teachers, mechanics and laborers, and to fix, allow and order paid their salaries and compensation, and to determine the rates of tuition for non-resident pupils.

THIRD—To levy a special tax if necessary, which when added to moneys apportioned by the county superintendent of schools, will be sufficient to provide funds for the maintenance of the schools for nine months in each year; the special taxes levied by said board of trustees for the payment of interest on bonds and sinking fund, for payment of bonds at maturity, together with the levy for the maintenance of schools, shall not exceed ten mills on the dollar.

FOURTH—To provide furniture, fixtures and apparatus, and for everything needed in the school house or for the use of the board.

FIFTH—To rent, repair and insure school houses and property, and preserve the same for the benefit of the schools of the district.

SIXTH—To build or remove school houses and buildings, and to purchase or sell school lots.

SEVENTH—To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school, children under six years of age.

EIGHTH—To determine the number and qualifications of teachers who shall be employed and the length of time the school shall be kept, to fix the time for opening or closing of school, and for the dismissal of primary pupils before the regular time of closing schools.

NINTH—To require pupils to be furnished with the proper and suitable books as a condition of membership in the schools.

TENTH—To exclude from the schools and school libraries of said district all books, tracts, papers and catechisms of a sectarian nature.

ELEVENTH—To require teachers to conform to the law and the regulation of the board.

TWELFTH—To protect the morals and the health of the pupils while at school.

SEC. 85. All the provisions of this Act providing for a public school system wherein not contradictory to or inconsistent with the provisions of this chapter and which may be made applicable to the objects thereof, are adopted as a part of the law governing the establishment and management of independent school districts.

SEC. 86. Whenever there shall have accumulated in the hands of the treasurer of any school district in the State moneys belonging to said school district to an amount in excess of the amount which, in the opinion of the school district board of said district, shall be necessary for the necessary current expenses of maintaining the schools in said district, the same shall be invested by said board in United States bonds, State bonds, State warrants or county warrants when the market value thereof is not below par. And said board shall deposit said securities in some safe deposit, and they shall there be kept until it shall become necessary to convert the same into money for school district purposes, to be determined by said board.

SEC. 87. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 88. Whereas an emergency exists this Act shall be in force and effect from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 43.

AN ACT

PROVIDING FOR THE ELECTION OF ASSESSORS AND ATTORNEYS FOR CITIES, TOWNS AND VILLAGES, AND PRESCRIBING THEIR DUTIES; DEFINING THE POWERS OF TRUSTEES OR COUNCILS OF CITIES, TOWNS AND VILLAGES; DEFINING THE JURISDICTION AND POWERS OF POLICE MAGISTRATES; FIXING THE PRESENT LIMITS OF INCORPORATED CITIES AND TOWNS AND PROVIDING FOR EXTENDING THE SAME; AND FIXING THE APPORTIONMENT OF MONEYS COLLECTED FROM LICENSES IN CITIES, TOWNS, AND VILLAGES; AMENDING TITLE XIII OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The board of trustees shall have power, by ordinance, to provide for the election and the duties and compensation, of a city, town

or village assessor, who shall assess the assessable property of the city, town or village for city, town or village purposes in the same manner as county assessors assess property for county purposes, independent of the assessment rolls made by the county assessor.

SEC. 2. That section twenty-two hundred and thirty-eight (2238) of the Revised Statutes be amended so as to read as follows:

Section 2238. The board of trustees have power to levy and collect taxes for general revenue purposes, not to exceed ten mills on the dollar in any one year, on all property within the limits of such incorporated towns or villages, taxable according to the laws of the State of Idaho; the valuation of such property to be taken from the books or assessment rolls of the county assessor of the county in which such town or village is situated, for the last preceding assessment, except where a city, town or village assessor has been elected, as provided in section one (1) of this Act, in which case the valuation shall be taken from the assessment roll made by the said assessor.

SEC. 3. That section twenty-two hundred and thirty-nine of the Revised Statutes be amended so as to read as follows:

Section 2239. The assessor of such town or village must make a full and fair assessment of all the real and personal and other property within the limits of such town or village subject to taxation under the laws of this State, and to do this he must copy and make up such list or assessment so to be made by him from the books and assessment rolls of the last preceding assessment made under the laws of this State by the assessor of the county in which such town or village is situated, except where a city, town or village assessor has been elected under the provisions of section 1 of this Act, in which case he must make the assessment as therein provided; and the clerk of said board of trustees must, under the direction of said board of trustees prepare and deliver to the treasurer of such town or village a duplicate of said tax list, keeping in his office the original list returned by the assessor as aforesaid, and he may receive therefor such compensation as the board of trustees may prescribe.

SEC. 4. The board of trustees shall have power to provide by ordinance for the election or appointment of a police magistrate, who shall have jurisdiction over all offenses against the city, town or village ordinances.

He shall have the same power as the district court in the issuance of process, and to enforce due obedience to all orders, rules and judgments made by him. The mayor or chairman of the board of trustees may be eligible to the office of police magistrate, and the board of trustees may fix his compensation.

SEC. 4A. That section twenty-two hundred and thirty-two (2232) of the Revised Statutes be amended so as to read as follows:

Section 2232. The corporation attorney and all other officers, except the marshal and police magistrate of all cities, towns and villages now incorporated, or hereinafter to be incorporated, shall be elected by the qualified voters thereof at the same time and in the same manner, in each city, town or village as is prescribed for the election of members of the council or board of trustees. The city or town marshal shall be appointed by the council or board of trustees, and shall be subject to removal by them for cause, and the council or board of trustees shall have power to fix and regulate by ordinance the salary and fees of all officers specified in this section

at their last regular meeting prior to the election or appointment of such officers, and at any time thereafter to prescribe their duties; and said council or board of trustees shall have power to fill all vacancies that may occur in any office until the next regular election, and shall require the treasurer, and such other officers as they may deem necessary or expedient, to give bonds, with sufficient security, to be approved by them, in such sum or sums as they shall deem necessary, to secure the faithful performance of the duties of their respective offices and as security for the proper appropriation and payment of all moneys coming into their hands as such officers.

SEC. 5. That section twenty-two hundred and thirty-one (2231) of the Revised Statutes be amended so as to read as follows:

Section 2231. One-half of all moneys which are collected within the limits of such city, town or village for liquor and other licenses, or from fines or penalties under any ordinance of such city, town or village must be paid over by the officers collecting the same into the city, town or village treasury for general revenue purposes; and one-half of such moneys shall be paid to the trustees of the several school districts of said city, town or village for the benefit of the public schools of said city, town or village, the same to be divided in case there is more than one district in said city, town or village; then among the several districts in proportion to the number of children of school age residing in each, according to the last school census in such district.

SEC. 6. Any city or town incorporated and subject to the provisions of this Act shall include within its corporate limits all the territory heretofore included therein; and, also, the board of trustees or council may, by ordinance, include within the corporate limits of such city or town all territory contiguous or adjacent thereto which has been at any time by the owner or proprietor thereof, or by anyone by his authority or acquiescence, laid off or subdivided into lots or blocks containing not more than five acres of land each, whether the same shall have been so laid off, subdivided or platted in accordance with any statute of this State or otherwise, and the board of trustees or council shall have the power, by ordinance, to compel the owners of any contiguous or adjacent land, or any part thereof, brought within the corporate limits of such city or town aforesaid, to lay out streets, avenues and alleys so that the same shall correspond in width and direction, and be continuous with the streets, avenues and alleys of such city or town, or otherwise, as shall appear most for the convenience of the inhabitants of such city or town and the public, and to vacate any public road heretofore established through such land where necessary to secure regularity in the general system of streets, avenues and alleys through the same.

SEC. 7. Every railroad company owning a right of way through and within the corporate limits of any city, town or village of this State shall open up across and over such right of way streets and alleys, so that the same may conform to, and be continuous with, the laid-out and dedicated streets or alleys of such city, town or village, and said company shall maintain and keep in repair all necessary crossings across such right of way for the convenience of public travel.

SEC. 8. Whenever any land lying contiguous or adjacent to any such city or town, or to any addition or extension thereof, shall be, or shall have been, by the owner or proprietor thereof, or any person by or with

his authority or acquiescence, laid off into lots or blocks of not more than one acre of land, whether the same shall have been, or shall be, laid off, subdivided or platted in accordance with any statute of this State or otherwise, or has sold, or begun to sell off such adjacent lands by metes and bounds in tracts not exceeding one acre, or whenever any tract or portion not exceeding ten acres of land may have been, or shall be, contiguous to, or surrounded or bounded by, on one or more sides by any addition or extension, or intended addition, to any such city, whether platted as aforesaid or not, it shall be competent for the board of trustees or council, by ordinance, to declare the same, by such name, designation or description as they may see fit, a part of such city or town; and thereupon and thereafter the corporate limits of such city shall extend to and include such land.

SEC. 9. When land or territory shall be, or shall have been, laid off, subdivided or platted into lots or blocks, and such lots or blocks shall be, or shall have been, for the purposes of sale or otherwise subdivided into smaller lots or parcels, such smaller lots or parcels shall be treated and regarded as lots or blocks within the meaning of the two preceding sections; and land or territory laid off or subdivided, as in said sections described, shall be regarded and treated as contiguous to such city or town, notwithstanding any stream or embankment or any strip or parcel of land not more than two hundred feet in width may be or lie between such land or territory and the corporate limits of such city or town.

SEC. 10. The streets and alleys in all territory which shall be hereafter attached to towns, cities and villages, or when laid out into lots and blocks, shall be by the owners thereof dedicated to the use of the public.

SEC. 11. The violation of any valid city, town or village ordinance is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of the State of Idaho.

SEC. 12. That section twenty-two hundred and forty (2240) of the Revised Statutes be amended so as to read as follows:

Section 2240. The treasurer of such town, city or village receiving such duplicate tax list, within ten days thereafter, must give notice that the said tax list is in his hands for the collection of taxes; that the taxes, if not paid within thirty days from the date of such notices, will be delinquent and subject to all the forfeitures and penalties attaching to delinquent taxes under the general laws of the State; such notice must be made by publication one time in a newspaper published in the city, town or village, or, in case no newspaper is published therein, then by printed or written notices posted in four public places within the limits of said town, city or village.

SEC. 13. That section twenty-two hundred and forty-one, (2241) of the Revised Statutes be amended so as to read as follows:

Section 2241. Whenever any of said taxes become delinquent, as aforesaid, it is the duty of the treasurer of said town, city or village to deliver to the tax collector of the county in which said town, city or village is situated, at least ten days before the time appointed by law for advertising lands for sale for delinquent taxes of the county, a certified list of the delinquent taxes due for the said town, city or village, as well for previous years as for that year; and the lots and parcels of land upon which such delinquent taxes may be due must be advertised and sold by

such county tax collectors at the same time and in the same manner, and with like effect, as lands or lots are sold by such county tax collector for county taxes; and such county tax collector must make out certificates of sale, and must make, execute and deliver tax collector's deeds for lots or land so sold, within the same time and in the same manner as is now provided by law when land is sold for delinquent county taxes; and such certificates and deeds have the same force and effect as those made in cases of sale for delinquent county taxes; the county tax collector must forthwith pay over to the town, city or village treasurer all moneys collected by him for delinquent taxes as aforesaid.

SEC. 14. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 44.

AN ACT

PREScribing THE NUMBER OF TRIAL JURORS WHO MAY RETURN A VERDICT IN A CIVIL ACTION.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3938 be amended to read as follows:

A trial jury is a body of men returned from the citizens of a particular district before a court or officer of competent jurisdiction and sworn to try and determine by a verdict a question of fact. Three-fourths of the jury may render a verdict in a civil action, and such verdict shall have the same effect as a unanimous verdict.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 45.

AN ACT

PREScribing THE NUMBER OF TRIAL JURORS WHO MAY RETURN A VERDICT IN MISDEMEANORS, AND FOR THE POLLING OF THE JURY; AMENDING SECTIONS 7781 AND 7930 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 7781 of the Revised Statutes of Idaho be amended to read as follows:

Issues of fact must be tried by jury, unless a trial by jury be waived in criminal cases not amounting to felony by the consent of both parties expressed in open court and entered in the minutes. In case of misdemeanor, the jury may consist of twelve, or any number less than twelve upon which the parties may agree in open court, but five-sixths of the jury may render a verdict, which verdict shall have the same effect as a unanimous verdict.

SEC. 2. That section 7930 of the Revised Statutes of Idaho be amended to read as follows: When a verdict is rendered and before it is recorded, the jury may be polled at the request of either party, in which case they must be severally asked whether it is their verdict; and if five-sixths answer in the affirmative, then the verdict shall be recorded; but if a less number answer in the affirmative, the jury must be sent out for further deliberation.

SEC. 3. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 46.

AN ACT

TO ESTABLISH THE SOUTHEAST CORNER AND DEFINE THE SOUTHERN AND EASTERN BOUNDARIES OF LEMHI COUNTY, IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the southeast corner of township eleven north, of range thirty-four east is hereby established as the southeast corner of Lemhi County, Idaho; and a line running due north from such corner along the range line between ranges 34 and 35 east to the State line between the States of Idaho and Montana is hereby fixed and defined as the east line of said Lemhi County; and a line running due west from said southeast corner of said township eleven north, of range thirty-four east, along the township line between townships 10 and 11 north to Little Lost river, on the Custer County line, is hereby fixed and defined as the south line of said Lemhi County.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 47.

AN ACT

TO AUTHORIZE THE ORGANIZATION OF COUNTY MUTUAL FIRE INSURANCE COMPANIES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be lawful for any number of persons, not less than twenty-five, residing in any county in this State who, collectively, shall own property not less than twenty-five thousand dollars in value, which they desire to insure, to form themselves into a company for mutual insurance against loss or damage by fire, which corporation shall possess other powers and be subject to other duties of corporations, and the corporate name thereof shall embrace the name of the county in which the business office of the said company shall be located.

SEC. 2. Every company so formed shall choose of that number, not to exceed thirteen directors, to manage the affairs of such company, who shall hold their office for one year, or until others are elected and qualified; and such directors shall choose from their number a president, vice-president, secretary and treasurer, and said treasurer and secretary shall give such bond as shall be required by the board of directors of said company.

SEC. 3. The directors of such company shall file their articles of incorporation, together with a copy of their by-laws and the names of the officers of such company, in the office of the county auditor of the county in which such company is located, and shall keep a record of their proceedings in a book kept for that purpose, together with the names of all persons having property insured, and the amount of property so insured.

by said person, which record shall be kept open for inspection to all the members in such company at the office of the secretary thereof.

SEC. 4. The directors of such company may issue policies, signed by the president and secretary, agreeing, in the name of the company, to pay all losses or damage by fire, for a term not exceeding five years, to the holder of such policy, not exceeding the sum named therein.

SEC. 5. Every person insured against loss or damage by fire, shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns, to pay his pro rata share to the company of all losses or damage by fire which may be sustained by any member thereof. And every such undertaking shall, within five days after the execution thereof, be filed with the secretary in the office of said company, and shall remain on file in said office, except when required to be produced in court as evidence. He shall also, at the time of receiving insurance, pay such percentage in cash, or such reasonable sum named in the policy, as may be required by the rules and by-laws of the company.

SEC. 6. Every member of said company who sustains loss by fire shall immediately notify the secretary of said company, or, in case of his absence, the president thereof, specifying the property destroyed, the damage and cause thereof, which officer shall forthwith ascertain and adjust the amount of such loss or damage, or who shall forthwith convene the directors of such company, whose duty it shall be to appoint a committee of not more than three members of said company to ascertain the amount of such loss; and in case of the inability of the parties to agree upon the amount of such damage the claimant shall choose a disinterested party, and the company shall choose a disinterested party who shall constitute a board of arbitration to settle such loss; and in case these parties cannot agree they shall choose a third party to act with them, and said board of arbitration shall have power to examine witnesses and determine all matters in dispute, and the decision of said board shall be final.

SEC. 7. The company, under the provisions of this Act, may classify property insured at the time of issuing the policy thereon under different rates, corresponding as nearly as may be to the greater or less risk from fire or loss which may attach to each several building or personal property insured. Whenever the amount of any loss shall be ascertained, and there are not sufficient funds in the treasury to pay such loss or damage, the president or secretary shall convene the directors of said company, who shall make assessments on the property insured, taking in connection the rate of premium under which it may have been classified.

SEC. 8. It shall be the duty of the secretary, whenever such assessments shall have been completed, to notify every person composing such company, by letter sent to their postoffice address, of the amount of such loss, and the sum due from him as his share thereof, and the time when and to whom such payment is to be made, and such time shall not be less than thirty days nor more than sixty days from the time of such notice.

SEC. 9. Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this Act, and the directors of such company so formed who shall wilfully neglect to perform the duties imposed upon him under

the foregoing sections of this Act shall be personally liable to the individual sustaining such loss.

SEC. 10. No company formed under the provisions of this Act shall insure any property outside the county in which such organization is formed, nor within the limits of any incorporated town or city, except only warehouses of farmers' organizations, and such other buildings as may be used in connection with the business of agriculture. All farm buildings within the limits of the county, and all other property of the farm subject to damage by fire, may be insured under the provisions of this Act.

SEC. 11. The directors of each company shall be chosen annually by ballot, as shall be provided by the by-laws of such company, but each member shall have one vote, and no member shall vote by proxy.

SEC. 12. It shall be the duty of the secretary of each company, immediately preceding the annual election, to prepare a statement, which shall be a complete report of the amount insured, the number of policies issued, and to whom, and all other matters pertaining to the business of such companies, which statement shall be reported to the board of directors and subject to examination by any member of said organization.

SEC. 13. Any company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this Act, and may therein prescribe the compensation for its officers.

SEC. 14. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 6th day of February, 1899.

H. B. NO. 48.

AN ACT

DEFINING WHAT SHALL CONSTITUTE A DAY'S WORK ON PUBLIC WORKS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That not more than eight hours actual work shall constitute a lawful day's work on all State, county and municipal works: *Provided*, That nothing in this Act contained shall be construed as meaning any labor except manual labor, employed by the day, and nothing in this Act contained shall apply to State, county or municipal officials, or to any employees of the State, or any county or municipality, who are paid monthly or yearly salaries.

SEC. 2. That any and all bids for work on public buildings or other public works of the State, or of any county or municipality of the State, shall expressly state and declare that all laborers and mechanics employed by the day on such buildings or public works, or in the preparation of materials to be directly used for or in the construction of such buildings or public works, shall be employed on the basis of eight hours as a lawful day's work.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 49.

AN ACT

RELATING TO THE DELIVERY OF INSANE PERSONS TO THE ASYLUM AND AMENDING SECTIONS SEVEN HUNDRED AND SEVENTY-SEVEN AND SEVEN HUNDRED AND EIGHTY OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 777 of the Revised Statutes of Idaho be amended to read as follows: "Section 777. The insane person, together with the order of the judge and certificate of the physician, must be delivered to the sheriff of the county, and by him must be delivered to the agent appointed by the medical superintendent for the conveyance of such insane person to the asylum. Immediately upon receiving such insane person, together with the order and certificate aforesaid, the sheriff must immediately notify the medical superintendent of the asylum by telegraph, if there be telegraph communication accessible between the place where such insane person is and the asylum; if not, then the sheriff shall notify the medical superintendent of the asylum by letter, to be sent not later than one day after the sheriff receives the order and certificate aforesaid, of the facts; and at the time of delivering the order and certificate to the sheriff the examining physician, or physicians, together with the judge issuing the order, shall also deliver to the sheriff a certificate showing whether, in their judgment, one or more persons will be required to convey such insane person to the asylum; and the sheriff shall inform the medical superintendent of the asylum as to such facts at the time of giving the notice in this Act provided."

SEC. 2. That section 780 of the Revised Statutes of Idaho be amended to read as follows: "Section 780. Upon receipt of the notice from the sheriff provided for in section 777 of this chapter the medical superintendent must at once designate some person among the employees of the asylum as an agent to transport such insane person to the asylum, and, if it be deemed necessary, he shall designate also from said employees a person to act as the assistant of such agent. Such agent (and assistant if any be appointed) must at once proceed to the county where such insane person is in custody, and demand and receive from the sheriff such insane person, the order of the judge and the certificate of the physician, the agent receipting to the sheriff therefor. The agent must thereupon convey such insane person, together with such order and certificate, to the asylum, and surrender the same to the medical superintendent; and the latter shall at once notify the Governor that such insane person has been received at said asylum. The actual and necessary expenses of the agent, his necessary assistant and of the insane person when transferred from the custody of the sheriff to the asylum must be allowed and paid as other claims against the asylum; but the compensation of the agent and necessary assistant shall be only that allowed them while employed in the asylum."

SEC. 3. An emergency existing, therefore this Act shall take effect and be in force from and after its passage.

SEC. 4. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved on the 6th day of February, 1899.

H. B. NO. 50.

AN ACT

LIMITING THE PERSONAL LIABILITY OF STOCKHOLDERS OF CORPORATIONS; AMENDING SECTION 2609 REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

That section two thousand six hundred and nine of the Revised Statutes is amended to read as follows:

Section 2609. Each stockholder of a corporation is individually and personally liable for its debts and liabilities to the full amount unpaid upon the par or face value of the stock or shares owned by him. Any creditor of the corporation may institute actions against any of its stockholders jointly or severally, and in such action the court must determine the amount unpaid upon the stock held or owned by each defendant, and a several judgment must be entered against him for a sum not exceeding such amount; and nothing in this title must be construed to render any stockholder individually or personally liable, as such stockholder, for debts or liabilities of the corporation, either at the suit of a creditor or for assessments or calls, to an amount exceeding the balance unpaid upon his stock, or the difference between the amount that has been actually paid upon his stock and the par or face value thereof, except when so liable on the ground of fraud or misrepresentation, or concealment, or for neglect or misconduct as an officer, agent, stockholder, or member of the corporation; and no corporation shall issue any stock as paid up, in whole or in part, or credit any amount, assessment or call as paid upon any of its stock, except for money, property, labor or services actually received by the corporation, or actually paid upon the indebtedness of the corporation as provided in this section, to the full value of the amount credited upon such stock. If any stockholder of any insolvent corporation pays the full amount unpaid upon the stock held by him, as above defined, upon the overdue debts of the corporation, incurred while he was such stockholder, he is relieved from any further personal liability upon his stock, but not from any liability for fraud, neglect or misconduct. The liability of each stockholder is determined by the amount of stock or shares owned by him at the time the debt or liability was incurred by the corporation; and such liability is not released or discharged by any subsequent transfer of stock. When such liability does not arise upon contract it shall be deemed to be incurred when judgment therefor is obtained against the corporation. The term stockholder, as used in this section, applies not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock, although the same appears on the books in the name of another; and, also, to every person who has advanced the installments or purchase money, or subscribed for stock, in the name of a minor, so long as the latter remains a minor; and, also, to every guardian or trustee who voluntarily invests any trust funds in the stock. Trust funds in the hands of a guardian or trustee are not liable under the provisions of this section, by reason of any such investment; nor is the person for whose benefit such investment is made responsible in respect to the stock until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making the investment continues until that period, or while the investment continues. Stock held as collateral security, or by a trustee who is not the beneficial owner, or in any other representa-

tive capacity without a beneficial interest, does not make the holder thereof a stockholder within the meaning of this section, except in the cases above mentioned, so as to charge him with the debts or liabilities of the corporation, but the pledgor, or person, or estate represented is to be deemed the stockholder, as respects such liability. Members of corporations not organized for profit and having no capital stock are not individually or personally liable for its debts or liabilities, unless such liability is imposed by the by-laws of the corporation and then only to the extent so imposed; any such liability may be enforced, to the extent imposed by the by-laws, by joint or several actions against members, as before provided. The liability of each stockholder of a corporation not formed under the laws of this State, but doing business within the State, is the same as the liability of stockholders of corporations organized under the laws of this State.

SEC. 2. That all corporations doing business in this State, whether organized under the laws of this State, or some other State, desiring to avail themselves of the provisions of this Act, shall cause to be written or printed after the corporate name, on its stock certificates, letter and bill heads, and all its official documents the word "limited;" also, after the corporate signature to all official or public documents the word "limited."

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 51.

AN ACT

CONCERNING FEES AND COMPENSATION OF COUNTY OFFICERS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The clerk of the district court may lawfully charge, demand and receive the following fees for services rendered in discharging the duties imposed on him by law:

For entering each suit on the register of actions, and making the necessary entries therein, twenty-five cents.

For issuing every summons, attachment, writ of injunction, or other original writ or process, fifty cents.

For issuing each subpoena, ten cents.

For filing each paper, fifteen cents.

For entering of record every motion, rule, order, default, non-suit, or discontinuance, twenty cents per folio.

For entering every cause on the calendar, and making a copy thereof for the bar, for each term of court, fifty cents.

For calling and swearing every jury, fifty cents.

For receiving and entering each verdict of a jury, fifty cents.

For entering every final judgment, for each folio, twenty cents.

For making a copy of any paper or record, including certificate, when required, for each folio, twenty cents.

For making and filing judgment roll, fifty cents.

For every certificate under seal, twenty-five cents.

For issuing every commission to take testimony, including certificate and seal, one dollar.

For taking down testimony or depositions, including oath, certificate and seal, for each folio, twenty cents.

For issuing every execution, or other final process, fifty cents.

For issuing every decree or order of sale, certificate and seal, for each folio, twenty cents.

For receiving and filing remittitur and accompanying papers from the Supreme Court, twenty-five cents.

For taking each bond required by law, twenty-five cents.

For acknowledgment of deed, or other instrument, including seal, twenty-five cents.

For swearing witnesses, ten cents.

For taking affidavit, including jurat, fifteen cents.

For entry of each case in judgment docket, fifty cents.

For entering satisfaction of judgment, twenty-five cents.

For filing and entering transcript of judgment from justice's court, fifty cents.

For all services not herein enumerated and of him required, or which he is called on to perform, such fees as are herein allowed for similar services.

For final papers of naturalization, five dollars, which includes all services in swearing witnesses, making minutes, recording, certifying, and issuing such papers under seal.

SEC. 2. The sheriff is allowed and may demand and receive the fees hereinafter specified:

FIRST.—For serving a summons and complaint, or any other process by which an action or proceeding is commenced, on each defendant, one dollar.

SECOND.—For serving an attachment on property, or levying an execution, or executing an order of arrest, or order for the delivery of personal property, one dollar.

THIRD.—For his trouble and expense in taking and keeping possession of and preserving property under attachment or execution, or other process, such sum as the court may order: *Provided*, That no more than three dollars per diem be allowed to a keeper.

FOURTH.—For taking a bond or undertaking in any case in which he is authorized to take the same, fifty cents.

FIFTH.—For copy of and making return on any writ, process, or other paper, when demanded or required by law, for each folio, twenty cents.

SIXTH.—For serving every notice, rule, or order, fifty cents.

SEVENTH.—For making and posting notices, and advertising property for sale on attachment or execution, or under any judgment or order of sale, exclusive of the costs of publication, each notice, twenty cents per folio.

EIGHTH.—For serving a writ of possession or restitution, putting a person in possession of premises and removing the occupant, three dollars.

NINTH.—For holding each inquest, a trial of right of property, to include all services in the matter except mileage, three dollars.

TENTH.—For serving a subpoena, for each witness summoned, twenty-five cents.

ELEVENTH.—For commissions for receiving and paying over money on execution or other process, when land or personal property has been levied on and sold, on the first one thousand dollars, two per cent.; on all sums

above that amount one per cent.; but in no case of sale of real estate shall his commission exceed the sum of one hundred dollars, and when the amount of such sale is credited on the debt and no money is transferred, then one-half of such commission.

TWELFTH.—For commissions for receiving and paying over money on execution without levy, or where lands or goods levied on are not sold, on the first one thousand dollars, one and one-half per cent.; and one-half of one per cent. on all over that sum, but not to exceed in any case fifty dollars. The fees herein allowed for the levy of an execution, costs for advertising and percentage for making or collecting the money on execution, must be collected from the judgment debtor by virtue of such execution, in the same manner as the sum therein directed to be made.

THIRTEENTH.—For drawing and executing a sheriff's deed, including the acknowledgement, to be paid by the grantee before delivery, three dollars.

FOURTEENTH.—For executing a certificate of sale, exclusive of the filing and recording the same, one dollar.

FIFTEENTH.—For making every arrest in a criminal proceeding, two dollars.

SIXTEENTH.—For summoning each juror, twenty-five cents.

SEVENTEENTH.—For serving a subpoena in a criminal action or proceeding, for each witness summoned, twenty-five cents.

EIGHTEENTH.—For traveling, to be computed in all cases from the court house to serve any summons and complaint, or any other process by which an action or proceeding is commenced, notice, rule, order, subpoena, venire, attachment on property, to levy an execution, to post notice of sale, to sell property under execution or other order of sale, or execute an order of arrest, or order for the delivery of personal property, writ of possession or restitution, to hold inquest or trial of right of property, for each mile actually and necessarily traveled, in going only, thirty-five cents; for traveling to execute any warrant of arrest, subpoena, venire, or other process in criminal cases, or for taking a prisoner from prison before a court or magistrate, or for taking a prisoner from the place of arrest to prison, or before a court or magistrate, for each mile actually and necessarily traveled, in going only, thirty-five cents; for each additional prisoner taken at the same time, fifteen cents per mile; but if any two or more papers be required to be served in the same action or proceeding, civil or criminal, or be in the possession of the sheriff for service at the same time, and in the same direction, one mileage only shall be charged; and in serving a subpoena, venire, process or paper, when two or more jurors, witnesses, parties or persons to be served reside or are found in the same direction, traveling fees must be charged only for the most distant; and only one mileage per day must be charged for taking a prisoner from prison before a court or magistrate; and constrictive mileage must in no case be charged or allowed. For all services arising in justices courts, the same fees as are allowed to constables for like services.

NINETEENTH.—For executing every sentence of death, seventy-five dollars, to be paid by the county.

TWENTIETH.—The sum of not more than one (1) dollar per day for each prisoner confined in the county jail, as remuneration in full for the board, clothing and lights of such prisoner. He shall be allowed a jailor, for whose services he shall be allowed the sum of not less than two dollars,

nor more than three dollars per day for each day a prisoner or prisoners are confined in the county jail of his county, to be fixed by the board of county commissioners. For all services under the election laws, the same mileage and fees as in this Act provided for similar services.

SEC. 3. The probate judge shall receive as compensation for services as such officer not more than two thousand dollars, nor less than five hundred dollars, per annum, and may charge and collect the following fees: When sitting as a committing magistrate in preliminary examinations, three dollars; for the trial of criminal causes, five dollars; for issuing warrant of arrest, fifty cents; for taking bail after commitment, fifty cents; for examination of insane person, five dollars. In case the fees received in any one year shall not amount to the minimum compensation herein provided in any year, he shall be paid by the county a sum sufficient to make his aggregate yearly compensation equal to said minimum compensation. The clerk of the probate court, or the probate judge acting as clerk, is allowed, and may demand and receive, the fees hereinafter specified: the same fees allowed the clerk of the district court or justice of the peace for the same services. For issuing letter testamentary, or of administration, or of guardianship, fifty cents; for writing and posting all the required copies of each notice required to be posted, fifty cents; for each notice, including all the copies, for publication and posting, in addition to costs of publication, fifty cents; for recording wills or other papers required by law to be recorded, for each folio, twenty cents; for copies of all papers or proceedings in the probate court, including certificate and seal, when required, for each folio, twenty cents; for entering each order, for each folio, twenty cents; for all other services, the same fees as are allowed the clerk of the district court for like services: *Provided*, That if upon the filing of the appraisement of any estate it appears that the whole estate is not of the value of one thousand dollars, no further clerk's fees must be charged.

SEC. 4. The county recorder and auditor is allowed, and may receive for his services, the following fees and compensation, to be paid him by the party procuring his services as recorder: For filing, indorsing and indexing every instrument, paper or notice, when the instrument, paper or notice is not for record, but to be kept on file, fifty cents; for recording every instrument, paper or notice, for each folio, twenty cents; for copies of any record or paper, for each folio, twenty cents; for each certificate under seal, when required, twenty-five cents; for abstract of title and searching the records therefor, and for each conveyance or incumbrance certified, fifty cents; for entry of discharge of mortgage or other instrument on the margin of the record, witnessing and indexing the same, twenty-five cents; for recording every town plat or map, for first one hundred lots or less, three dollars and fifty cents; and for each additional lot, one cent; for taking acknowledgments, including seal, fifty cents; for filing, recording and indexing marriage certificates, one dollar; for administering to the locator the oath and certifying the same on the location notice of a mining claim, and for filing, recording and indexing each notice, two dollars; which must be divided equally between him and his mining deputy, who receives such notice; for recording each mark or brand, fifty cents; for administering an oath, including jurat, twenty-five cents; and certifying same when required, twenty-five cents additional; for all other services as recorder, not enumerated herein, the same fees allowed the clerk of the district court for like services.

As the auditor:

He is allowed and may receive, when not otherwise provided by law, fees as follows:

For administering the oath, including a jurat, if required, twenty-five cents.

For each paper filed, ten cents.

For all services in connection with the assessment and collection of taxes and other duties relating to revenue for each year, except licenses, ten cents per name.

For all other services as clerk of the board of county commissioners, such salary as the said board may provide, not exceeding in counties of the first class, \$200; second class, \$175; third class, \$150; fourth class, \$125; fifth class, \$100.

For making records or furnishing copies thereof, twenty cents per folio.

SEC. 5. County commissioners of each county shall receive the sum of six dollars for each day actually and necessarily engaged in transacting county business, not to exceed five hundred dollars (\$500) for any one year and five cents per mile for each mile necessarily traveled in transacting county business when such traveling is over a railroad line, and fifteen cents per mile in all other cases: *Provided*, No commissioner shall receive mileage for traveling over any railroad line over which he has a pass.

SEC. 6. The county treasurer shall be allowed on all moneys received and disbursed by him two per cent. on the first thirty thousand dollars; and one per cent. on all over thirty thousand dollars: *Provided*, That nothing in this Act shall be construed so as to allow any officer a percentage on both receiving and disbursing: *Provided, further*, That no percentage shall be allowed to treasurers for receiving and disbursing school moneys.

SEC. 7. That section 2161 of the Revised Statutes be amended so as to read as follows:

Section 2161. The following are county charges:

FIRST.—Charges incurred against the county by virtue of any provision of this title or this Act.

SECOND.—The compensation allowed by law to constables and sheriffs for executing process on persons charged with criminal offenses; for services and expenses in conveying criminals to jail; for the service of subpoenas issued by or at the request of the district attorneys and for other services in relation to criminal proceedings.

THIRD.—The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail.

FOURTH.—The compensation allowed by law to county officers in criminal proceedings, when not otherwise collectable.

FIFTH.—The sum required by law to be paid to grand jurors and indigent witnesses in criminal cases.

SIXTH.—The accounts of the coroner of the county, for such services as are not provided to be paid otherwise.

SEVENTH.—All charges and accounts for services rendered by justices of the peace or probate judges for services in the examination of persons charged with crime, not otherwise provided for by law.

EIGHTH.—The necessary expenses incurred in the support of county hospitals and the indigent sick, and the otherwise dependent poor, whose support is chargeable to the county.

NINTH.—The contingent expenses, necessarily incurred for the use and benefit of the county.

TENTH.—Every other sum directed by law to be raised for any county purpose, under the direction of the board of county commissioners, or declared to be a county charge. All officers whose fees are herein provided for shall render an annual report, under oath, to the board of county commissioners of all fees received as such officer; and when it shall appear that the amount so received does not equal the minimum compensation provided in article eighteen, section seven, of the Constitution, for such office, said officer shall be paid by the county a sum sufficient to make his salary as such officer equal to such minimum compensation; and in case it exceeds the maximum compensation therein provided, such officers shall pay over the excess to the county treasurer.

SEC. 8. That sections 276 and 2145 of the Revised Statutes, and all acts and parts of acts inconsistent with this Act be, and they are hereby repealed.

SEC. 9. Whereas an emergency exists therefor, this shall be in force and take effect from and after its passage.

Became a law without approval February 9th, 1899.

H. B. NO. 52.

AN ACT

PREScribing THE AFFIDAVIT AND ACKNOWLEDGMENT OF CHATTEL MORTGAGES AND FOR THE FILING THE SAME; AMENDING SECTIONS 3386 AND 3387 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That title 12, of chapter 4, sections 3386 and 3387, be amended so as to read as follows:

Section 3386. A mortgage of personal property is void as against creditors of the mortgagor and subsequent purchasers and incumbrances of the property in good faith and for value, unless:

FIRST.—It is accompanied by the affidavit of the mortgagor that it is made in good faith and without any design to hinder, delay or defraud creditors.

SECOND.—It is acknowledged or proven, as grants of real estate, and the mortgage, or a true copy thereof, is filed for record with the county recorder of the county where such property is located and kept.

SEC. 2. Section 3387 is amended to read as follows:

Section 3387. Upon the receipt of any such instrument the recorder shall indorse on the back the time of receiving it, and shall file the same in his office, to be kept there for the inspection of all persons interested, and the recorder shall keep a book in which shall be entered a minute of all mortgages of personal property; such book shall be ruled off into separate columns, with heads as follows: "Time of reception," "Name of mortgagor," "Date of instrument," "Amount secured," "When due," "Property mortgaged," "Before whom sworn to and acknowledged," and "Remarks."

The proper entry shall be made under each of such heads, and the recorder shall receive the sum of fifty cents, and no more, for filing any

such mortgage, which amount he may demand before filing any such mortgage: *Provided*, that property in transit from the possession of the "mortgagee" to the county in which the "mortgagor" resides, or to a location for use, shall, for a reasonable length of time for such transportation, be considered as located in the county to which the same is being removed: *Provided, further*, That if the mortgagee receive and retain actual possession of the property mortgaged, he may omit the filing of his mortgage during the continuance of such actual possession.

SEC. 3. All acts and parts of acts inconsistent with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 53.

AN ACT

TO CREATE AND DEFINE THE DUTIES OF STATE BOARD OF HORTICULTURAL INSPECTION, APPROPRIATE MONEY FOR THE EXPENSE THEREOF, AND TO PREVENT THE GIFT, SALE, DISTRIBUTION, TRANSPORTATION, OR PLANTING OF INFESTED TREES, PLANTS, CUTTINGS, GRAFTS, SCIONS, BUDS, OR OTHER HORTICULTURAL MATERIAL; AND TO PROVIDE FOR DISINFECTION OR DESTRUCTION OF THE SAME, AND PRESCRIBING PENALTIES FOR FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ACT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby created the State Board of Horticultural Inspection, which Board shall consist of five members as follows: The professors of botany and zoology of the University of Idaho shall be ex officio members of said Board and the other three members shall be appointed by the Governor of the State as soon as may be after the passage of this Act, and shall hold their offices for the term of three years or until their successors are appointed and qualified and in making said appointments the Governor shall consider the recommendations of the "State Horticultural Society" as the proper persons to be so appointed: *Provided*, That of the three members of said Board first appointed after the passage of this Act, one shall hold his office for one year, one for two years and one for three from the date of his appointment.

SEC. 2. Before entering on the duties of his office, each member of said Board shall take and subscribe the official oath prescribed for State officers, which oath shall be filed in the office of the Secretary of State.

SEC. 3. Said Board shall meet on March 15th 1897 when it shall elect a president and a secretary from its number, who shall hold their offices during the pleasure of the Board. The secretary shall perform such duties as may be prescribed by the Board, and shall receive such compensation as the Board may establish, not exceeding two hundred and fifty dollars per annum. Said Board shall meet annually at such times and at such places as it shall determine.

SEC. 4. Said Board shall at its first meeting divide the State into not more than ten districts, and shall appoint a "State Horticultural Inspector" for each district so established. The persons so appointed shall be especially qualified for the positions by reason of practical knowledge of horticulture and the pests incident thereto. Their jurisdiction shall be limited to their respective districts. Said inspectors shall hold their offices during the pleasure of said Board and shall be furnished with all necessary stationery and blanks by said Board. Said Board shall make an estimate of

the amount of money available for each of said districts each year and no inspector shall incur any expense of any kind under this Act in excess of said estimate furnished him by said State Board. The aggregate sum of all the estimates furnished to the various district inspectors for any year must in no case exceed the appropriation available for carrying out this Act for such year.

SEC. 5. Each inspector so appointed shall receive as compensation for his services as such inspector the sum of five dollars per day for each day actually and necessarily employed in the discharge of his duties as prescribed in this Act. Such compensation shall be paid out of the general fund of the State, upon warrants duly drawn by the State Auditor, only after the bills presented for such services shall have been audited and approved by the secretary and a majority of the members of said Board and audited as other bills against the State of Idaho.

SEC. 6. It shall be the duty of said State Inspectors, either upon their own motion or upon the complaint of interested parties, to enter and make or cause to be made inspections of any field, rights of way of irrigation canals or railways, public highways, orchard, nursery, fruit packing, houses, storeroom salesroom, depot or other place where fruits are grown or stored, and of fruits, trees, plants, vines, or other horticultural material within the State, supposed to be or liable to be infested with fruit pests, or with their eggs, or larvae, or infested with contagious disease injurious to fruits, plants, trees or vines, as hereinafter provided. The inspector shall require such person or persons to eradicate or destroy said injurious pests or other insects or their eggs or larvae, within a reasonable time to be specified; said notice shall be served on said person or persons, or either of them owning or having in charge such infested place, orchard, nursery, trees, plants, vines, fruit or articles as visited by the inspector, or it may be served in the same manner as the summons in a civil action. If the owner or owners, or the person or persons in charge or possession of any orchard or nursery, or trees or places, or horticultural articles infested with insects or any of them, or their larvae, or eggs after having been notified as above, to destroy the same, shall fail, neglect or refuse to do, then any and all such places, public highways, orchards, nurseries, trees, plants, vines, fruit, or articles thus infested are adjudged and declared to be a public nuisance, and shall be proceeded against as such; and whenever any such nuisance shall exist at any place in the State or on the property of any non-resident or on any highway as aforesaid, or on any property, the owner or owners of which cannot be found within the State, or on any property where notice has been served as aforesaid and where the owner or those in possession shall refuse or neglect to abate such nuisance within the time specified, it shall be the duty of the inspector within the county or district, wherein the nuisance is to be abated, and he is hereby empowered to cause said nuisance to be abated at once by eradicating or destroying all said pests or their eggs or larvae; or by disinfecting or destroying all fruit, vines, plants or other articles upon which any of said fungus diseases, pests, or their eggs or larvae may be found. The expense of such proceedings shall be paid out of the general fund of the State in the same manner as above set forth for paying said inspectors.

SEC. 7. The inspectors are hereby vested with all necessary authority to enforce quarantine against any infested fields, lots, orchards, nurseries, trees, plants, shrubs, vines, buds or scions, fruits or any place or article

within the State when the same may be liable to spread contagious diseases injurious to fruit or trees, or fruit crops of any kind, and to provide necessary rules and regulations to govern the same.

SEC. 8. For the purpose of disseminating knowledge concerning contagious diseases or injurious pests affecting trees, plants, vines or fruits, and the remedies, preventives, and disinfectants applicable thereto; the Board shall from time to time, as it may deem necessary, have printed bulletins containing such information, remedies, preventives and disinfectants as it may approve, which bulletins shall be circulated among the fruit growers, fruit dealers, shippers, transportation companies of horticultural products and their agents within the State.

SEC. 9. All peach, nectarine, apricot, plum, prune, almond or other trees, budded or grafted upon peach stocks or roots; all peach or other pits, cuttings, buds or scions, raised or grown in a district where "peach yellows" or "peach rosette" is known to exist are hereby prohibited from being offered for sale, gift, distribution, transportation or planting within the State of Idaho. Any person, persons dealers, shippers, transportation companies or their agents, who shall be in possession of any such property for any purpose shall when required by the inspector, burn the same without delay.

SEC. 10. Fruit of any kind, trees, plants, cuttings, grafts, buds, seeds, scions, pits, or transportable material of any kind grown in any foreign country or in any of the United States or Territories, infested by any insect or insects or their eggs or larvae, seeds of weeds, or by any fungus or other disease or their germs, known to be injurious to fruit, or fruit trees or to other trees, and liable to spread contagion, are hereby prohibited from being offered for sale, gift, distribution, transportation or planting in any county of this State, until the same shall have been examined by the State inspector for such county or district, and if found diseased or infested, shall have been thoroughly disinfected as may be required by the inspector, the owner to pay the actual expense of such disinfection.

SEC. 11. Any person or persons shipping fruit, or fruit trees, scions, cuttings, or plants within the State shall affix to each package or parcel containing the same a distinct mark, stamp or label, showing the name of the produce and the shipper of the same and the locality where grown.

SEC. 12. Any person, persons, dealers or shippers having in their possession any fruit, trees, plants, cuttings, grafts, buds, seeds, pits, scions or other transportable horticultural stock of any kind infested with any injurious insects or their germs, or with any fungus or other diseases injurious to fruit or fruit trees, or to other trees or plants, or who shall sell or offer for sale, gift, distribution, transportation or planting, or who shall refuse or neglect to destroy or disinfect (as provided in this Act or as ordered by the inspector of his district) the said fruit or trees, plants, cuttings, pits, scions or other material, or who shall refuse or neglect to attach a district mark or label as hereinbefore provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than five hundred dollars.

SEC. 13. Each inspector shall make a detailed report of all his official acts to the secretary of said Board on the first day of every month, which report shall be under oath and shall include a statement of the number of

days actually and necessarily employed and miles traveled as such inspector during said month and a detailed statement of the amount due him or to other persons, for services or expenses incurred in carrying out the provisions of this Act. The secretary of said State Board shall audit all such bills and shall submit them by mail to each member of said State Board for approval and signature. If approved by a majority of said Board, said bills shall be transmitted to the State Auditor, and they shall be audited and paid as other claims against the State: *Provided*, Such bills shall not be so sent by mail to the members of the Board during the month in which occurs the annual meeting of said Board, but shall be submitted at such meeting.

SEC. 14. The members of the Board shall serve without compensation, but shall receive actual expenses incurred in attending the meetings of the Board.

SEC. 15. All county officers shall be liable on their official bonds for the proper performance of any duties imposed by this Act.

SEC. 16. Inexcusable neglect or refusal to comply with the orders of a State Inspector, made in pursuance of the provisions of this Act, shall constitute a misdemeanor and shall be punished as provided for misdemeanors in section 13 of this Act.

SEC. 17. There is hereby appropriated out of any money in the State treasury not otherwise appropriated for carrying out the provisions of this Act for the period ending with the close of the fiscal year of 1898 the sum of ten thousand five hundred dollars, or so much thereof as may be necessary, of which not more than one thousand five hundred dollars shall be available for paying the expenses of the State Board, the secretary, stationery postage and printing; and nine thousand dollars for payment of the per diem of the inspectors and of expenses incurred by them in carrying out the provisions of this Act. The State Auditor shall draw warrants against said appropriation in favor of the proper persons upon bills properly approved by a majority of said State Board, and audited as provided by law for other claims against the State.

SEC. 18. Whereas there is great danger to the horticultural interests of the State of Idaho from pests and other causes for which no adequate remedy has been provided an emergency existing therefor this Act shall take effect from and after its approval by the Governor.

SEC. 19. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved on the 10th day of February, 1899.

H. B. NO. 54.

AN ACT

TO PROVIDE FOR PROSECUTING OFFENSES ON INFORMATION, AND TO DISPENSE WITH THE CALLING OF GRAND JURIES EXCEPT BY ORDER OF THE DISTRICT JUDGES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the several courts of this State shall possess and may exercise the same power and jurisdiction to hear, try, and determine prosecutions upon information for crimes, misdemeanors and offenses, to issue writs and process, and do all other acts therein as they possess and may exercise in cases of like prosecutions upon indictments.

SEC. 2. All informations shall be filed during term, in the court having jurisdiction of the offense specified therein, by the district attorney

as informant; he shall subscribe his name thereto and indorse thereon the names of the witnesses known to him at the time of filing the same; and at such time before the trial of any case as the court may by rule or otherwise prescribe, he shall indorse thereon the names of such other witnesses as shall then be known to him.

SEC. 3. The offense charged in all informations, shall be stated with the same fullness and precision in matters of substance, as is required in indictments in like cases, and in all cases defendant or defendants shall have the same rights as to proceedings therein, as he or they would have if prosecuted for the same offense upon indictment.

SEC. 4. That the provisions of the criminal code in relation to indictments, and all other provisions of law applying to prosecutions upon indictments, to writs and process therein, and the issuing and service thereof, to motions, pleadings, trials and punishments, or the execution of any sentence, and to all other proceedings in cases of indictment, whether in the court of original or appellate jurisdiction, shall in the same manner and to the same extent, as near as may be, apply to informations and all prosecutions and proceedings thereon.

SEC. 5. Any person who may according to law be committed to jail, or become recognized or held to bail with sureties for his appearance in court to answer to any indictment may, in like manner, so be committed to jail or become recognized and held to bail for his appearance to answer to any information or indictment, as the case may be.

SEC. 6. It shall be the duty of the district attorney to inquire into and make full examination of all the facts and circumstances connected with any case of preliminary examination as provided by law, touching the commission of any offense wherein the offender shall be committed to jail or become recognized or held to bail, and if the district attorney shall determine in any such case that an information ought not to be filed, he shall make, subscribe and file with the clerk of the court a statement in writing containing his reasons, in fact and in law, for not filing an information in such case, and that such statement shall be filed at and during the term of court at which the offender shall be held for his appearance: *Provided*, That in such case such court may examine said statement, together with the evidence filed in the case; and if, upon such examination, the court shall not be satisfied with said statement, the district attorney shall be directed by the court to file the proper information and bring the case to trial.

SEC. 7. Grand juries shall not hereafter be drawn, summoned or required to attend at the sittings of any court within the State, as provided by law, unless the judge thereof shall so direct by writing, under his hand, and file with the clerk of said court.

SEC. 8. No information shall be filed against any person for any offense until such person shall have had a preliminary examination therefor, as provided by law, before a justice of the peace, or other examining magistrate or officer, unless such person shall waive his right to such examination: *Provided, however*, That information may be filed without such examination against fugitives from justice, and any fugitive from justice against whom an information shall be filed may be demanded by the Governor of this State of the executive authority of any other State or Territory, or of any foreign government, in the same manner, and the

same proceedings may be had thereon as provided by law in like cases of demand upon indictment filed.

SEC. 9. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 6th day of February, 1899.

H. B. NO. 55.

AN ACT

TO RE-ESTABLISH THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Counties of Blaine, Lincoln, Cassia, Custer and Elmore shall constitute and comprise the fourth judicial district of this State.

SEC. 2. The district judge of the fourth judicial district of this State shall, within twenty days after the passage of this Act, appoint terms of the district court, as provided by law, for the several counties in said district.

SEC. 3. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 4. An emergency existing therefor, this Act shall take effect immediately.

Approved on the 6th day of February, 1899.

H. B. NO. 56.

AN ACT

FIXING THE POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS AND HIGHWAY OFFICERS OVER HIGHWAYS; PROVIDING FOR THE FORMATION OF CONTRACT ROAD DISTRICTS AND THE MANNER OF LETTING ROAD CONTRACTS; AMENDING SECTIONS 870, 873, 886, 905, 907, 908, 927, 929, 931, 945, 946, 949, 975, AND 1028 OF THE REVISED STATUTES OF IDAHO AND REPEALING SECTION 948 THEREOF; ADDING SECTIONS 875, 876, 877, 878 AND 879 TO ARTICLE THREE, CHAPTER TWO OF TITLE VI OF THE POLITICAL CODE OF IDAHO.

SECTION 1. That section 870 of the Revised Statutes of Idaho be amended to read as follows:

The board of county commissioners by proper ordinances must:

FIRST. Divide the county into a suitable and convenient number of road districts and appoint therefor annually, or whenever vacancies occur, overseers, with power to remove them at pleasure;

SECOND. Cause to be surveyed, viewed, laid out, recorded, opened, and worked such highways as are necessary for public convenience, as in this chapter provided;

THIRD. Cause to be recorded as highways such roads as have become such by usage or abandonment to the public;

FOURTH. Abolish or abandon such as are unnecessary;

FIFTH. Contract, agree for, purchase or otherwise acquire the right-of-way over private property for the use of public highways, and for that purpose institute or require the district attorney to institute proceedings under the Code of Civil Procedure, and to pay therefor from the district road fund of the particular district;

SIXTH. Let out by contract the improvement of highways, and constructions and repairs of bridges or other adjuncts to highways, when the amount of work to be done by contract exceeds one hundred dollars: *Provided*, That at least twenty-five per cent. of the fund collected in any

road district must be expended in the district in which such fund was collected;

SEVENTH. Levy a property road tax to be paid into the county road fund and also to levy a property road tax of not more than three dollars on each one thousand dollars, nor less than one dollar on each one thousand dollars, of taxable property to be paid in work by the owner of such property in each district wherein such taxable property shall be assessed; the wages per diem for such work to be fixed by the county commissioners; or at the option of such property owners to be paid in money the same as other taxes, and the money so collected shall be credited to the respective districts to be used for building and repairing bridges and roads therein, and the purchase of needful tools and materials for maintaining the roads and bridges in such districts;

EIGHTH. Order and direct the overseers specially in regard to work to be done on particular roads in their districts, and it shall be the duty of every overseer of roads on or before the first day of March in each year to obtain the names and make out a list of all persons liable to road work and residing within his road district, and file the same with the auditor, whose duty it shall be to affix to each name the amount of property owned in such district and assessed the last preceding year;

NINTH. Cause to be erected and maintained, on the highways they may designate guide posts properly inscribed;

TENTH. Cause the road tax collected each year to be paid into the road fund and kept by the treasurer in a separate fund, and all road work to be done between the first day of April and the first day of December, and returns to be made for all such work to the Auditor on or before the first day of December of each year;

ELEVENTH. Audit and draw warrants on the road fund of the county required to pay for right-of-way or improvements thereon;

TWELFTH. Set apart when it may appear necessary and expedient and beneficial to the public interest sparsely populated road districts as contract road districts.

SEC. 2. That section eight hundred and seventy-three be amended so as to read:

Road overseers, under the direction and supervision and pursuant to orders of the board of commissioners appointing them, must:

FIRST.—Take charge of the public highways within their respective districts.

SECOND.—Keep them clear from obstructions and in good repair.

THIRD.—Cause banks to be graded, bridges and causeways to be made where necessary, keep the same in good repair, and renew them when destroyed.

FOURTH.—Give two days' notice to the inhabitants of his road district liable to do work on roads, when, where, with what implements, and under whose direction to work, and superintend the same.

FIFTH.—Collect, from each inhabitant notified to work and who fails to work or prefers to pay it, the commutation fee.

SIXTH.—Make semi-annual reports of all labor performed in his district to the board of commissioners, under oath.

SEVENTH.—Receive and present petitions for new roads, recommend or disapprove the same, and assist in laying them out.

EIGHTH.—Collect all road poll taxes in the mode provided for the col-

lection of other poll taxes, and faithfully account for and pay over the same.

NINTH.—Receive for his services, from money in the treasurer's hands belonging to the road fund, the sum of not less than two dollars and fifty cents, and not more than four dollars, for each day's service performed by him, to be fixed by the board of commissioners, annually, at their regular meeting in January, to be audited and ordered paid by the board of commissioners.

SEC. 3. That article 3, chapter 2, of the Political Code of the Revised Statutes of Idaho, be amended by adding thereto the following section: 'Section 875. The county commissioners shall at least three weeks prior to the regular meeting in July, when necessary, cause notice to be published in some newspaper, published in the county, for sealed proposals to be received by said board for keeping in repair and improving the public roads and highways in all districts, set apart as contract road districts; and each proposal, or bid, so submitted to the board, shall be accompanied by a bond conditional for the faithful performance of the duties of the contract, which may be entered into by and between the party making the proposal, or bid, and the board of county commissioners, in a sum not less than double the amount of the bid for the improvement and keeping in repair of the roads and highways within the district proposed, the bond to be secured by two or more sureties who shall justify in the same form and manner as is required on bonds of county officers. *Provided*, That all bidders shall be residents of the road district which they contract for. At the time to be stated in the notice of the board of county commissioners shall open and examine the proposals, or bids, and award to the lowest and best bidder the contract for not less than two nor more than three years for the respective contract road districts. *Provided further*, That the board shall reserve the power to reject any and all bids.

SEC 4. That section eight hundred and eighty-six be amended so as to read:

The annual property tax for road purposes must be levied by the board of commissioners at their session when the tax is by them levied for county purposes, and must not be less than ten, or exceed sixty cents on each one hundred dollars in value of taxable property. This property road tax, when levied, must be annually assessed and collected by the same officers and in the same manner as other State and county taxes are levied, assessed and collected, and turned over to the county treasurer, for the use of the road fund.

SEC. 5. That section nine hundred and five be amended so as read: Every overseer must make to the commissioners semi-annually a written account, under oath, containing:

FIRST.—The names of all persons assessed to work in his district.

SECOND.—The names of all who have actually worked, and the number of days.

THIRD.—The names of all who have commuted, and the amount received from them.

FOURTH.—The names of all delinquents, and the amount collected from them.

FIFTH.—A full return by items of the amount of labor performed at

each separate point, and the manner in which, and the time when, the same was done.

SIXTH.—The number of road poll tax receipts sold, and those returned unsold.

SEVENTH.—An accurate account of every day he himself was employed, and the nature and items of the service rendered.

SEC. 6. That section nine hundred and seven be amended so as to read: The road overseers must accompany their reports with all moneys remaining in their hands at the date of the report; in addition to the reports required of road overseers in article five of this chapter, each road overseer shall, on the first Monday of each month, report to the auditor of his county all moneys that may have come into his hands as such road overseer during the preceding month, stating therein, particularly, the source from which the same was derived. Upon receiving such report the auditor shall certify to the treasurer the amount due from such road overseer and to what fund or funds the same may belong. Within five days the road overseer making such report shall pay over to the county treasurer the whole amount specified in his report for the preceding month. The treasurer shall then make and file with the auditor a receipt for the amount paid, and the auditor shall give to the road overseer a release for the amount and charge the treasurer with the same.

SEC. 7. That section nine hundred and eight be amended so as to read: A failure to make a report as required, or to pay over according to law, or on the order of the commissioners, any moneys in his hands subjects the overseer to a penalty of \$25, to be recovered in an action on his bond, together with any balance due from him; suit therefor may be instituted by the district attorney under order of the board of commissioners.

SEC. 8. That section nine hundred and twenty-seven be amended so as to read: The viewers must be paid three dollars each per day for their services out of the road fund, and the surveyors, for services in running out and mapping the road and making the plat and field notes, which must be filed when required before he receives his compensation, five dollars per day.

SEC. 9. That section nine hundred and twenty-nine be amended so as to read: If the board approve the report, and there are no non-consenting land owners, the road must, by order, be declared a public highway, and the road overseer ordered to open the same to the public. If there are non-consenting land owners, the board must appropriate from the road fund, and cause the road overseer to tender to such non-consenting land owners, the award of damages made by the board. If the awards are all accepted the roads must be declared a public highway and be opened as before provided.

SEC. 10. That section nine hundred and thirty-one be amended so as to read: All awards by agreement, ascertainment by the board or by the proper court, must be paid out of the road fund on the order of the board of commissioners.

SEC. 11. Section nine hundred and forty-five be amended so as to read: All public bridges, not otherwise specially provided for, are maintained by the county at large in the same manner as highways and under the management and control of the road overseer and board of commissioners, the expense of constructing, maintaining, and repairing the

same being primarily payable out of the road fund in the hand of the county treasurer, and from road poll taxes.

SEC. 12. That section nine hundred and forty-six be amended so as to read: Whenever it appears to the board of commissioners that the road fund is or would be unreasonably burdened by the expense of construction and maintenance and repair of any bridge or road they may, in their discretion, cause a portion of the aggregate cost or expense to be paid out of the general fund of the county, and they may levy a special tax, not exceeding one-fourth of one per cent., on the taxable property of the county, annually, until the amount appropriated in aid is raised and paid.

SEC. 13. That section nine hundred and forty-nine be amended so as to read: If the road overseer of any road district, chargeable with the repair of a bridge, fails to make the needed repairs after being informed that a bridge is impassable or unsafe, and is requested to make the same by two or more tax payers of the district in which it is situated, or the two districts which it unites, the tax payers may represent the facts to the board of commissioners, who, upon being satisfied that the bridge is unsafe, must cause the same to be repaired and must pay therefor from the road fund.

SEC. 14. That section nine hundred and seventy-five be amended so as to read: All penalties or forfeitures given in this chapter, and not otherwise provided for, must be recovered by the road overseers of the respective road districts and be paid into the road fund; all moneys in the hands of the county treasurer to the credit of the various road district funds at the time this Act shall take effect shall be by the treasurer transferred to the road fund of his county, and all outstanding warrants drawn against the various road district funds, at the time this Act takes effect shall be paid out of the road fund of the county in the order of their registration.

SEC. 15. That section ten hundred and twenty-eight be amended so as to read: When the road company desires the exclusive use of lands forming part of the highway, and such use is granted by the county commissioners, the damages received therefor are to be paid to the road fund of the county in which the same is situated.

SEC. 16. That article 3 of chapter 2 of Title VI of the Political Code of the Revised Statutes of Idaho be amended by adding thereto the following sections to wit: Sections 876, 877, 878, 879.

Section 876.—Any person or persons contracting as provided in this Act shall cause all roads and highways, in their respective districts, to be kept clear of obstruction, and in good repair, banks to be graded, bridges and crossings to be made where the same may be necessary to keep the same in good repair and put in snow bridges when snow roads are used during the winter months, whenever the same may be required, and to use reasonable diligence in keeping each road passable.

Section 877.—The board of county commissioners upon learning that any of the public roads are not repaired and kept in good order by any one contracting to do so in a contract road district shall have power and shall cause the same to be done by placing labor thereon; and such expense shall be retained from any amount that may be due him on his contract, and should that be insufficient, or nothing be due thereon, the

deficiency or whole amount (as the case may be) shall be collected from his bondsmen, as other liabilities.

Section 878—The several amounts allowed to the contractors in the several and respective contract road districts shall be audited and allowed as other claims against the county by the board of county commissioners at their regular meeting, and shall be paid quarterly.

Section 879—In all road districts set apart as contract road districts, the road poll tax thereon shall be collected by the tax collector and be, by him, paid into the county treasurer and applied to the county road fund.

SEC. 17. All acts and parts of acts conflicting with the provisions of this bill are hereby repealed.

SEC. 18. That section nine hundred and forty-eight be, and the same is hereby, repealed.

SEC. 19. An emergency existing therefor, this Act shall take effect and be in force immediately after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 57.

AN ACT

TO PROVIDE FOR THE APPORTIONMENT OF THE LEGISLATURE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The apportionment of the two houses of the Legislature is as follows:

The first senatorial district consists of the County of Ada, and shall elect one Senator.

The second senatorial district consists of the County of Blaine, and shall elect one Senator.

The third senatorial district consists of the County of Bannock, and shall elect one Senator.

The fourth senatorial district consists of the County of Bear Lake, and shall elect one Senator.

The fifth senatorial district consists of the County of Bingham, and shall elect one Senator.

The sixth senatorial district consists of the County of Boise, and shall elect one Senator.

The seventh senatorial district consists of the County of Canyon, and shall elect one Senator.

The eighth senatorial district consists of the County of Cassia, and shall elect one Senator.

The ninth senatorial district consists of the County of Custer, and shall elect one Senator.

The tenth senatorial district consists of the County of Elmore, and shall elect one Senator.

The eleventh senatorial district consists of the County of Fremont, and shall elect one Senator.

The twelfth senatorial district consists of the County of Idaho, and shall elect one Senator.

The thirteenth senatorial district consists of the County of Kootenai, and shall elect one Senator.

The fourteenth senatorial district consists of the County of Latah, and shall elect one Senator.

The fifteenth senatorial district consists of the County of Lemhi, and shall elect one Senator.

The sixteenth senatorial district consists of the County of Lincoln, and shall elect one Senator.

The seventeenth senatorial district consists of the County of Nez Perce, and shall elect one Senator.

The eighteenth senatorial district consists of the County of Oneida, and shall elect one Senator.

The nineteenth senatorial district consists of the County of Owyhee, and shall elect one Senator.

The twentieth senatorial district consists of the County of Shoshone, and shall elect one Senator.

The twenty-first senatorial district consists of the County of Washington, and shall elect one Senator.

The several counties shall elect members of the House of Representatives as follows:

Ada County, four members;
 Blaine County, two members;
 Bannock County, three members;
 Bingham County, two members;
 Bear Lake County, two members;
 Boise County, two members;
 Canyon County, three members;
 Cassia County, one member;
 Custer County, one member;
 Elmore County, one member;
 Fremont County, three members;
 Idaho County, two members;
 Kootenai County, three members;
 Latah County, five members;
 Lemhi County, two members;
 Lincoln County, one member;
 Nez Perce County, two members;
 Oneida County, two members;
 Owyhee County, two members;
 Shoshone County, four members;
 Washington County, two members.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 10th day of February, 1899.

H. B. NO. 58.

AN ACT

TO ENCOURAGE ARBOR CULTURE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Friday following the first day of May in each year shall hereafter be known throughout this State as arbor day.

SEC. 2. It shall be the duty of the authorities of every public school in this State to assemble the scholars in their charge on that day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct, under the general supervision of the county superintendents of public instruction, such exercise as shall tend to encourage

the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results.

SEC. 3. The State Superintendent of Public Instruction shall have power to prescribe, from time to time, in writing, a course of exercises and instructions in the subjects hereinbefore mentioned, which shall be adopted and observed by the school authorities on arbor day, and upon receipt of copies of such course, sufficient in number to supply all the schools under their supervision, the county superintendent of public instruction aforesaid shall promptly provide each of the schools under his charge with a copy and cause it to be adopted and observed.

SEC. 4. This Act shall take effect and be in force from and after its passage and approval, an emergency existing therefor.

SEC. 5. All acts and parts of acts inconsistent with this Act are hereby repealed.

Approved on the 7th day of February, 1899.

H. B. NO. 59.

AN ACT

TO PROVIDE FOR THE CARE, MANAGEMENT, AND MAINTENANCE OF THE STATE LIBRARY; PRESCRIBING THE DUTIES AND COMPENSATION OF THE STATE LIBRARIAN; AND AMENDING SECTION 810 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Justices of the Supreme Court of this State shall have the control and management of the State library, and shall make such rules and regulations respecting the same as they deem best.

SEC. 2. They shall appoint a librarian, at a salary not to exceed seven hundred and twenty dollars per year and such librarian must keep the library open every day, except Sundays and legal holidays, from 9 o'clock a. m. until 9 o'clock p. m.

SEC. 3. The said Justices shall have the management of all funds belonging to or appropriated for the use of the State library, and expend and disburse the same for the benefit thereof, as in their judgment may be best; and upon demand of said Justices, or any two of them, the State auditor shall draw his warrants upon the State Treasurer for such sum or sums as there may be in the Treasurer's hands belonging to or appropriated for the use of said library.

SEC. 4. The librarian of the State library shall give a bond, with sufficient sureties, to be approved by one or more of the Justices of the Supreme Court, in the sum of two thousand dollars (\$2,000), conditioned for the faithful performance of his duties and the preservation of the books in said library. He shall have charge of and is authorized to sell the volumes of the Supreme Court reports now in the possession of the State, and shall monthly turn over to the State Treasurer all moneys received from sales thereof, and such moneys shall be placed in the State library fund.

SEC. 5. Any person may have access to and may use the books in said library, under such restrictions as the Justices of the Supreme Court may prescribe. Any person who shall violate any rule established for the management of said library may be denied the privileges of said library. Any person who shall wantonly mutilate or destroy any book or any article of furniture, or any pamphlet or paper belonging to said

library, shall be deemed guilty of a misdemeanor, and be punished accordingly. Any person who fails to return to the library any book taken therefrom by him, within the time prescribed by the rules of said library, shall be liable to the librarian in three times its value, to be recovered in a civil action; and if such person be an officer or employee of the State, the same shall be withheld from his pay.

SEC. 6. The State library shall be kept in the capital building, and the Justices of the Supreme Court shall cause the same to be fully insured against loss or destruction by fire.

SEC. 7. Section 810 of the Revised Statutes of Idaho, and all acts or parts of acts in conflict with this Act are hereby repealed.

SEC. 8. Whereas an emergency exists therefor, this Act shall take effect immediately.

Approved on the 10th day of February, 1899.

H. B. NO. 60.

AN ACT

DEFINING THE DUTIES OF THE GOVERNOR; AMENDING SECTION 180 REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section one hundred and eighty of the Revised Statutes be amended so as to read as follows:

Section 180. In addition to those prescribed by the Constitution, the Governor has the power and may perform the duties prescribed in this and the following sections:

FIRST.—To supervise the official conduct of all executive and ministerial officers.

SECOND.—To see that all offices are filled, and the duties thereof performed, or, in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the Legislature therewith at its next session.

THIRD.—To make the appointments and supply the vacancies provided by law.

FOURTH.—He is the sole official organ of communication between the government of this State and the government of any other State or Territory, or of the United States.

FIFTH.—Whenever any suit or legal proceeding is pending in this State, or which may affect the title of this State to any property, or which may result in any claim against the State, he may direct the Attorney-General to appear on behalf of the State.

SIXTH.—He may require the Attorney-General or district attorney of any district to inquire into the affairs or management of any corporation existing under the laws of this State.

SEVENTH.—He may require the Attorney-General to aid any district attorney in the discharge of his duties.

EIGHTH.—He may offer rewards not exceeding one thousand dollars each, payable out of the State Treasury, for the apprehension of any convict who has escaped from the State prison, or of any person who has committed or is charged with the commission of an offense punishable with death; and also offer like rewards, not exceeding five hundred dollars each, in cases of felony where the punishment for the offense is not punishable with death.

NINTH.—To perform such duties respecting fugitives from justice as are prescribed by the penal code.

TENTH.—To issue and transmit election proclamations as prescribed by law.

ELEVENTH.—He may require any officer to make special reports to him in writing on demand.

TWELFTH.—He has such other powers and may perform such other duties as are devolved upon him by any law of this State.

SEC. 2. Whereas there is an emergency, this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 61.

AN ACT

PROVIDING FOR THE ISSUANCE OF NEGOTIABLE COUPON BONDS FOR THE FUNDING AND REFUNDING OF COUNTY INDEBTEDNESS; AMENDING CHAPTER 6, TITLE XIII REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Chapter VI of Title XIII of the Revised Statutes of Idaho is amended to read as follows:

Section 3602. The board of county commissioners of any county in this State, may issue negotiable coupon bonds, of their county for the purpose of paying, redeeming, funding or refunding the outstanding indebtedness of the county, as hereinafter provided, whether the indebtedness exists as warrant indebtedness, or bonded indebtedness. Said bonds shall be issued as near as practicable, in denominations of one thousand dollars each, but bonds of the denominations of five hundred, and one hundred dollars may be issued when necessary. Said bonds must bear interest at a rate of not to exceed six per cent. per annum, the interest to be paid on the first day of January and the first day of July in each year, at the office of the county treasurer, or at such bank in the City of New York as may be designated by the board of county commissioners; such bonds to be redeemed by the county in the following manner: Ten per cent. of the total amount issued to be paid in ten years from the date of issue; and ten per cent. annually thereafter until all of said bonds are paid. But said bonds or any part thereof, may at the option of the county issuing the same, be redeemed at any time after ten years from the date of their issue, provided such time and option be stated upon the face of each bond, and each bond must be redeemed in the order it is numbered.

Section 3603. For the purpose of extending the time of payment of said outstanding indebtedness, or reducing the interest charged, or when the interests of the county require it, the board may issue said bonds, in exchange for bonds, theretofore issued by the county, or for valid and legal warrants of the county, then outstanding, and may do so by resolution of the board at a regular meeting thereof, and without a vote of the people.

Before any bonds shall be issued or exchanged under this section, the board of county commissioners shall ascertain that the bonds or warrants, the payment of which, is to be extended, or which are to be taken in exchange for the new issue of bonds, are valid, and legal obligations of the county, and their finding of fact shall be entered of record, on the minutes

of their proceedings at least ten days before any exchange is made, as herein provided. The said board shall also, before issuing any bonds under this section, deduct from the total outstanding legal indebtedness of the county, at the time of the issue of said bonds, the cash on hand in the treasury of the county, that is available for the payment of said legal indebtedness, or any part thereof, and the issue of bonds as in this section provided for, shall in no case exceed the aggregate or total legal indebtedness of the county then outstanding, less the cash on hand to be applied in payment and discharge of said indebtedness.

Section 3604. When the interests of the county require it, and the board of commissioners of a county, deem it to the public good to bond the county, to fund or refund the outstanding obligations of the county, or to bond the county for the purpose of providing funds for acquiring a site, and erecting a court house, and jail, or a jail thereon, and for the construction or repair of roads or bridges, or for any one or more of said purposes, and the indebtedness or liability of the county, that may be created by the bonding, funding or refunding aforesaid, or in purchasing a site and erecting a court house and jail, or a jail thereon, and for the construction or repair of roads or bridges, or for any one or more of said purposes, exceeds the income or revenue of the county for that year, the board of commissioners may issue bonds of the county, as provided by section 3602 of this Act; *Provided*, That the issuing of such bonds be first authorized by a vote of two-thirds of the qualified electors of the county voting at an election held for that purpose, as hereinafter provided. And *Provided further*, That before the board of county commissioners shall issue any bonds to fund or refund the indebtedness of the county as in this section provided, they shall deduct from the legal indebtedness of the county, at the time of the issue of said bonds, the cash on hand in the county treasury, applicable to the discharge of said indebtedness, and may issue bonds for the remainder of the indebtedness.

Section 3605. The board must cause to be levied annually, upon all the taxable property of the county, in addition to other authorized taxes, a sufficient sum to pay the interest on all bonds disposed of in pursuance of this Act, and must at least one year before such bonds become due, and in time to provide the means for their payment, cause to be levied a sufficient additional sum to pay said bonds as they become due, and all such taxes must be levied, assessed, and collected, as other county taxes are levied, assessed, and collected, until the bonds so issued are fully paid, including the interest thereof; the faith, credit, and all taxable property within the limits of the county, as constituted at the time of such issue, are, and must continue pledged, to the payment of said bonds. Should the tax for the payment of interest on any bonds issued under the provisions of this Act, at any time not be levied or collected in time to meet such payment, the interest must be paid out of any moneys in the county general, or current expense fund of the county, and the moneys so used for such payment of interest must be repaid to the fund from which so taken, out of the first moneys arising from taxes collected on interest account as herein provided, and any excess over and above the interest charge shall be placed in a sinking fund, to be known as the Bond Tax Sinking Fund.

The moneys in the sinking fund created under this section may be invested in bonds or warrants of the State, or bonds issued by any county, or city, or school district in any State of the United States; and the county

treasurer of the county may, when authorized at a regular meeting of the board of county commissioners of the county make the investment for the county.

Section 3606. Should any part of a county that has incurred a bonded indebtedness, be cut off, and annexed to another county, or erected into a new or separate county, the assessor of the county to which the segregated portion is attached, or the assessor of the new county created as aforesaid, shall upon notice from the board of county commissioners of the original county from which such segregated portion was detached, given at the regular session of the board when county and State taxes are levied, collect in said segregated territory, and in addition to the other taxes collected by him for county and State purposes, and at the same time and in the same manner, the tax levied by said board of commissioners as herein provided; and the laws of the State relating to the levy and collection of taxes, and prescribing the powers, duties and liabilities of officers, charged with the collection, and disbursement of the revenue arising from taxes, are made applicable to this Act. The money collected by the assessor as aforesaid, shall be paid over by the treasurer of the county collecting it, to the treasurer of the county losing the said territory, and for the purposes herein directed, but such segregated territory so attached to another county, or erected into a new county shall be relieved of the annual tax, levied as provided in the foregoing section, when the county acquiring the same, or the new or separate county pays to the county losing the territory that proportion of the whole indebtedness, together with legal interest thereon, that the assessed value of property in the segregated territory, bears to the assessed value of the property in the whole county, as constituted before the division or segregation thereof.

Section 3607. The bonds mentioned in this Act must be signed by the chairman of the board of county commissioners, attested by the clerk of said board and bear the seal of said board, and be countersigned by the county treasurer of the county. Each bond must state upon its face the amount for which the same is issued, the date of issue, time and place of payment, and rate of interest, and must also recite that it is issued in conformity with the provisions of this Act, and this Act must be printed upon the back of each bond. There must be attached to each bond, when negotiated, semi-annual interest coupons covering the interest expressed in the bond from the date of issue until paid; the coupons annexed to such bonds must be signed by the treasurer of the county. Each coupon must bear a number corresponding to the number of the bond to which it is attached, and must state upon its face the amount for which the same is issued, the date of issue and the date and place of payment thereof.

Section 3608. The said board of county commissioners must give at least twenty days' notice by publication in some newspaper published in the county, if there be one, otherwise, by three notices posted up in the county, one of which must be at the court house door, of its intention to issue, negotiate and sell such bonds, or of its intention to issue such bonds for exchange, and shall invite bidders therefor; and said bonds must be sold or exchanged upon the best terms and upon the lowest rate of interest at which said bonds can be sold or exchanged, and the said board shall have the right to reject any or all of the bids offered, and may re-advertise for bids as herein provided for, by original notice. If the offers for purchase or exchange are accepted, the board must procure the proper engrav-

ing and printing of said bonds, which must be numbered consecutively, and must be duly registered by the auditor of the county in a book kept for that purpose; and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached and any other proper description thereof for future identification; the said board must from time to time, in such amounts as it may deem best, and in accordance with its contract, deliver said bonds to the county treasurer, and take and file his receipt therefor, and charge him with all bonds so delivered. Any duties required of said board in pursuance of the provisions of this section may be performed at any general, special or called meeting thereof. The treasurer must under the general supervision of said board, deliver said bonds for cash, or exchange them for any of the county indebtedness for the redemption of which they were issued, but in no case must said bonds be sold or exchanged for less than their face or par value and accrued interest at time of disposal; nor must any county indebtedness be redeemed at more than its face value and any interest that may be due thereon. If any portion of said bonds issued for the redemption of prior indebtedness are sold for money, the proceeds thereof must be applied exclusively toward the redemption of said county indebtedness for the redemption of which such bonds were issued. And the treasurer must give notice, as provided by law, of his readiness to redeem such indebtedness and thereafter interest thereon shall cease. When the treasurer redeems any county indebtedness, he must endorse, by writing or stamping in ink, on the face of the paper evidencing such indebtedness so redeemed, the time when, and the amount for which redeemed, whether by money or the exchange of bonds, and the words "redeemed" and "cancelled." He must also keep a record of all bonds disposed of by him, showing their number, rate of interest, date and amount of sale, when, where and to whom payable; and if exchanged, for what, which record he must keep open for inspection for the public at all reasonable office hours. And he must make such detailed statements to, and as often as required by said board, of all his transactions under the provisions of this Act, and return to the board, evidences of indebtedness redeemed by him, cancelled as aforesaid.

Section 3609. It shall be the duty of the county treasurer to apply the funds derived from the sale of the bonds to the payment of the indebtedness herein mentioned, and to no other purpose; and it shall be the duty of the county officials to levy, collect and apply the tax herein provided for, to the payment of interest and to the redemption of the principal of the bonds in the manner specified, and for no other purpose; and any failure to comply with the conditions of this Act by the proper officers, or any neglect or refusal to levy and collect any such tax as aforesaid, shall be deemed a misdemeanor, and any county official guilty of the same, must upon conviction, be fined in an amount equal to the sum that should have been levied, or for any misappropriation he shall be fined in an amount equal to the sum misappropriated and imprisoned in the county jail for a term of not less than three months nor more than twelve months.

Section 3610.—If the question of bonding the county as herein provided, is to be submitted to the voters of the county at a special election held for that purpose, the board shall cause printed or written notices of the intention to hold such an election, to be posted in two or more conspicuous places in each precinct of the county, and shall also cause a

printed notice of the intention to hold such an election to be published in one or more newspapers of the county, if any newspapers are printed therein; the said notices shall recite the action of the board in deciding to bond the county, the purpose thereof, and the amount of the bonds that are to be issued, and shall also specify the day of the election, the time during which the ballot box shall be open, which shall not be less than six hours; the notices posted in each of the several precincts shall also name the place of holding such election. The notices herein provided for shall be posted, or posted and published, at least twenty days before such election. Every male person over the age of twenty-one, who is a citizen of the United States, and shall have resided in the State six months immediately preceding the election at which he offers to vote, and in the county thirty days, shall be entitled to vote at such election.

Section 3611.—Such election shall be held in all respects in conformity with the general election laws so far as the same may be applicable, except as herein provided, but all that part of the general election law relative to the apportionment of registrars and the registration of voters, the appointment of judges and clerks, and the establishment of voting booths and printing of an official ballot, and providing for an official stamp, and method of voting, as provided in sections 77, 78 and 79 of the general election law, shall not apply.

Section 3612.—The board of county commissioners shall appoint two judges and one clerk of election in each precinct, for the purpose of holding such election, and upon the failure of either to act, the electors present at the opening of the polls may fill vacancies. Such judges and clerk conducting such election shall make return of such election to the board of county commissioners, within three days after such election is held.

The returns for bond elections shall be canvassed in the same manner as the returns for election of county and precinct officers are canvassed, and the result of the vote shall be officially declared by the county board of canvassers in the following manner: They shall record the total vote cast in each precinct for and against the proposed issue of bonds, in the book provided for recording the results of the general election, and shall make a complete copy of such record, duly certified to by them, and shall deposit the same with the auditor of the county.

Section 3613.—Such election shall be by ballot. The ballot shall be of white paper, three inches square, and shall contain the words: "Bond. Yes." "Bond. No." and shall have printed at the top the following instruction: "If the voter desires to vote for the issue of bonds, he shall strike out the word "No." If he desires to vote against the issue, he shall strike out the word "Yes."

The auditor of the county shall cause the ballots to be printed and distributed, and shall send a sufficient number to the judges appointed in the several precincts.

Section 3614.—The special election herein provided for, may be held at the same time and place at which the general election is held, and the officers of the general election in each precinct may serve as officers of the special election, but the notices of the election must be given, and the tickets printed and distributed as herein prescribed; the ticket when voted, shall be deposited in a separate box provided for its reception; the return of the vote by the judges of election shall be on a separate sheet

from the return of the general election, and shall be canvassed as hereinbefore provided for.

Section 3615.—The treasurers of the respective counties shall, for the services required of them by the provisions of this Act, receive a compensation of not more than one-fourth of one per cent. of the amount of bonds issued under the provisions of this Act, and the board of county commissioners shall, at the time of issuing such bonds, fix the rate of compensation, and when such bonds are sold, shall audit and allow the account of such treasurer.

Section 3616.—All acts and parts of acts in conflict with this Act are hereby repealed.

Section 3617.—Whereas an emergency exists, it is therefore declared that this Act shall be in force from and after its passage.

Approved the 7th day of February, 1899.

H. B. NO. 62.

AN ACT

GOVERNING THE ISSUANCE OF DEEDS TO OCCUPANTS OF TOWNSITES ENTERED UNDER THE LAWS OF THE UNITED STATES; AMENDING SECTION 2214 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section two thousand two hundred and fourteen of the Revised Statutes is amended to read as follows:

Section 2214. The successor in office of any judge, mayor or other officer who entered lands under said laws of the United States, or who was trustee for the execution of the trust in that behalf, whether such officer or trustee acted under this title, or under any other general law, or any local or special act, relating to any city or incorporated town, shall succeed to the trust and shall have authority to execute the same as fully as his predecessor, the original trustee, might have done while in office; and when no mayor's or other trustee's deed of any block, lot, share or parcel of any such townsite has been lost or cannot be found and there is no record thereof in the office of the county recorder, such successor, upon application to him in writing, duly verified, showing that no mayor's or other trustee's deed can be found to the part or parcel of such townsite described in the application, and that no such deed thereto is of record in the office of the recorder of the county, and that the applicant, his ancestor, predecessor or grantor has been in the quiet, peaceable and undisturbed possession of said premises under claim of title for the full period of five years next before the application, must, by good and sufficient conveyance, grant and convey the title of the premises described in the application to the applicant, which conveyance must be executed and acknowledged, and shall take and have effect as provided by section two thousand two hundred and one, for which, and the acknowledgment thereof, the trustee shall be entitled to receive a fee of five dollars from the applicant: *Provided*, That in every such application for deed under the provisions of this section an adverse claim to such parcel of said townsite shall be made to such mayor for the same, the mayor in every such case shall remit the parties claiming deeds to the same to a court of competent jurisdiction to settle the same, and when so determined, then the said mayor shall execute such deed to the prevailing party.

SEC. 2. Such conveyances being necessary in many instances to enable owners to make a perfect record to title to purchasers, an emergency exists, and this Act shall take effect upon its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 63.

AN ACT

TO FIX THE TIME FOR THE PAYMENT OF THE SALARIES OF ALL STATE AND DISTRICT OFFICERS WHOSE SALARIES ARE PAID OUT OF THE STATE TREASURY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The salaries of all State and district officers, whose salaries are paid from the State treasury, shall be paid quarterly, on the second Monday of January, April, July and October, of each year, out of any money in the treasury not otherwise appropriated.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 64.

AN ACT

TO ESTABLISH A UNIFORM STANDARD OF WEIGHTS AND MEASURES IN THIS STATE, AND TO PROVIDE FOR A STATE SEALER AND INSPECTOR OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the standard of weights and measures in this State shall agree exactly with the standard as recognized and furnished by the United States, and shall, for the purpose of security and verification, be kept in the custody of the Secretary of State.

SEC. 2. The Secretary of State shall be ex officio State Sealer of Weights and Measures, and shall have the care and custody of the authorized public standards of weights and measures. He shall try and prove by such standards all weights and measures, scales and beams which may belong to any county and be sent and brought to him for that purpose by the county sealer, and shall seal such, when found to be accurate, by stamping on them the letter "I" with a seal which he shall have and keep for that purpose.

SEC. 3. The county auditor of each county shall be the sealer of weights and measures for the county, and shall have the care and custody of the county standards. He shall procure at the expense of the county, when not already provided, a full set of weights and measures, scales and beams, which he shall cause to be tried, proved and sealed by the State standards, under the direction of the Secretary of State.

SEC. 4. The Secretary of State shall authorize and instruct the county auditor of each and every county in this State in regard to testing and verifying weights and measures within said county, and shall furnish said county auditor with a copy of this Act, and the county auditor shall immediately post in his office due notice of his authority and readiness to act as inspector and sealer of weights and measures, and shall advertise the same in two papers in said county for the month of January in each year: *Provided, however,* That in counties where no newspapers are published, that notices shall be posted in five public places.

SEC. 5. The several county sealers shall try and prove all weights and measures, scales and beams within their respective counties twice in

each year, and when the same are found or made to conform to the legal standards, they shall seal and mark such weights and measures with a seal to be kept by them for that purpose.

SEC. 6. The State and county sealers of weights and measures in this State shall charge for testing or sealing any beam or scale the sum of fifty cents, and for each and every weight or measure, ten cents; for sealing and marking liquid and dry measures, if the same be a gallon or more, ten cents; if less than a gallon, five cents. They shall also be entitled to a reasonable compensation for making such weights and measures conform to the standards established by this Act.

SEC. 7. That the expense justly chargeable to any county in this State and incurred in and immediately connected with procuring county standards of weights and measures, and noticing and advertising the same in furtherance of the provisions and intentions of this Act, shall, on presentation of proper and sufficient vouchers to the county commissioners, be accepted and paid by said county.

SEC. 8. That any person in this State who shall, after thirty days subsequent to published notice from the county sealers of weights and measures, as provided in section four of this Act, be found using any false or fraudulent beam, scale, weight or measure, and who shall fail or neglect, on written notice of the same from any person aggrieved, or in any way cognizant thereof, to have said imperfect beam, scale, weight or measure duly inspected, and by proper authority adjusted and sealed, or who shall use the same scale, weight or measure subsequent to said notice without correction or adjustment, as provided in this Act, any person so offending shall be liable to an action in law, and penalty of twenty dollars for each and every offense, to be paid into the county fund.

SEC. 9. That the Secretary of State and each and every county sealer of weights and measures in this State shall, before entering upon the performance of any official duties described or implied in this Act, take and subscribe the following oath or affirmation: "I, ..., do swear (or affirm) that I will not seal or give any certificate of correctness for any scale, weight or measure but such as shall as nearly as possible agree with the standard in my keeping, as the standard of the State of Idaho and of the United States, and that I will, to the best of my ability, execute and discharge truly and faithfully the trusts imposed in me. So help me God." Which oath or affirmation shall be filed in the office of the Secretary of State.

SEC. 10. In the sale of fruits, vegetables and all other articles sold by heaped measure, one thousand two hundred and eight-two (1,282) cubic inches shall constitute a half bushel.

SEC. 11. The hundred-weight shall consist of one hundred pounds, and twenty such hundred-weights shall constitute a ton.

SEC. 12. Whenever any of the following articles shall be contracted for or sold or delivered and no special contract or agreement shall be made to the contrary, the weight per bushel shall be as follows, to wit: Wheat, sixty pounds; clover seed, sixty pounds; rye, or Indian corn, fifty-six pounds; oats, thirty-six pounds; barley, forty-eight pounds; buckwheat, forty-two pounds; dried apples or peaches, twenty-eight pounds; potatoes, sixty pounds; green apples or pears, forty-five pounds; flax, fifty-six pounds.

SEC. 13. Whoever, in buying any of the articles mentioned in the

preceding section, shall take any greater number of pounds thereof to the bushel, or in selling any of said articles, shall give any less number of pounds thereof to the bushel, than is allowed by said section, with intent to gain advantage thereby, except when expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in double the amount of the property so wrongfully taken or not given, and ten dollars in addition thereto, to be recovered in any court of competent jurisdiction.

SEC. 14. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 65.

AN ACT

CONCERNING AND PROVIDING FOR THE FUNDING OF THE BONDED AND OTHER INDEBTEDNESS OF THE STATE OF IDAHO AT THE DATE OF ADMISSION.

WHEREAS, There is outstanding and will be due December 1st, 1891, bonds issued under the act of January 9, 1877, to the amount of \$46,715.06
 And interest thereon 4,671.51
 Also one bond issued under the act of February 2, 1885, due December 1, 1892, for 5,000.00
 And interest thereon for the years 1891 and 1892 600.00

Making a total of bond indebtedness with interest of \$56,986.57
 And, whereas, it is necessary to make provision for the prompt payment thereof; and, whereas, the floating indebtedness of the Territory of Idaho represented partly in warrants and partly in unpaid bills at the date of admission amounted to the sum of seventy-six thousand dollars; and whereas, this amount of indebtedness is still unpaid, and bearing interest at the rate of ten per cent., it is manifestly expedient to fund this amount at as early a date as possible by issuing bonds of the State, bearing six per cent. interest.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The State Treasurer, State Auditor and Governor shall be commissioners, who shall perform the duties specified in this Act.

SEC. 2. Said commissioners shall, prior to the first day of May, 1891, prepare a form of bond, with coupons attached, and procure the same to be engraved or lithographed in a suitable manner, to be used in refunding the outstanding bonds and interest thereon that may become due prior to December 1, 1892; also, for funding the indebtedness and warrants of the Territory outstanding at the date of admission as a State, or so much thereof as remains unpaid May 1st, 1891.

SEC. 3. The bonded indebtedness of the Territory to be refunded under this Act being the Territorial bonds falling due on December 1st, 1891, and on December 1st, 1892, amounting to the sum of fifty-one thousand seven hundred and fifteen dollars and six cents, and the interest thereon, being the sum of fifty-two hundred and seventy-one dollars and fifty-one cents. The floating and warrant indebtedness of the Territory to be funded under this Act being the sum of seventy-six thousand dollars, or so much thereof as remains unpaid May 1st, 1891, and interest thereon, two

thousand dollars, a total of one hundred and thirty-four thousand nine hundred and eighty-six dollars and fifty-seven cents.

SEC. 4. Said bonds shall be in amount for one thousand dollars, and for fractional sums thereof, when necessary. The principal thereof shall be payable at the State treasury, in legal currency of the United States, on the first day of December, 1911, or at any time after December 1st, 1900, at the option of the State of Idaho. The interest thereon shall be paid at the same place, in legal currency, at the rate of six per cent. per annum, payable semi-annually, on the first days of June and December in each year, upon the presentation of the proper coupons thereof, which shall have been prepared and attached to said bonds: *Provided*, That said commissioners may refund said debts at a lower rate if found practicable.

SEC. 5. Said bonds shall be signed by the Governor and bear the great seal of the State, attested by the Secretary of State. Each bond shall, when executed, be registered by the Treasurer in a book, with its number, amount, in whose favor drawn and the date; and the fact and date of registration shall be endorsed by him on such bond.

SEC. 6. The commissioners, prior to [the] first day of July, 1891, are hereby authorized to negotiate and sell for cash, at not less than par, such a number of these bonds as will equal the sum of the floating and warrant indebtedness of the Territory at the date of admission as a State, as stated in section 3 of this Act, or so much thereof as remains unpaid May 1st, 1891. The moneys to be derived from such sale to be paid to the State Treasurer, who shall certify to the State Auditor the amount so received. The Auditor shall make a record of the same in his books, and authorize the State Treasurer to at once apply said moneys toward the payment of an equal amount of Territorial warrants, including interest thereon. The State Treasurer shall, without delay, make calls and payments, in the order of priority, as provided by law, and shall make a proper record in his books of the moneys received and how paid.

SEC. 7. The State Auditor shall, three months prior to the first day of December, 1891, notify each and every holder of the bonds of the Territory now outstanding, and to become due December 1, 1891; and within three months prior to the first day of December, 1892, notify each and every holder of the bonds of the Territory now outstanding and to become due, December 1, 1892, that he will, within the next sixty days, in exchange for the bonds so to become due issue to such bondholder or holders new bonds bearing date the day of their delivery, payable at the State Treasury on the first day of December, 1911, or at any time after December 1, 1900, at the option of the State of Idaho, in legal currency of the United States, with interest, on the first days of June and December in each year, upon presentation and surrender of the proper coupons therefor, which said exchange shall be made dollar for dollar at the time of such exchange.

SEC. 8. It shall be the duty of the State Treasurer to keep a record of each bond issued, showing the date, amount and number, and the name of the person to whom issued, and also a record of each and every bond taken up in exchange, as above provided, showing the number and amount of said bond and the date of such exchange, and deposit duplicates of such records with the State Auditor.

SEC. 9. Upon the presentation and surrender of any bond to become due December 1, 1891, or December 1, 1892, for exchange, as provided

for in this Act, it shall be the duty of the State Treasurer to compute the amount of principal and interest at that time due on said bond and indorse the same on the back thereof; and after he shall have made a record thereof, the Treasurer shall deliver the same to the State Auditor, who shall indorse on the face of said bond the word "cancelled," together with the date of such cancellation, and file the same in his office; and thereupon the State Treasurer shall issue to the person so presenting and surrendering such bond a new bond of equal amount with the bond so surrendered, then due, and shall fill up and sign the coupons, as in this Act provided, and shall, after procuring the signature of the Governor and the the great seal of the State to be affixed thereon by the Secretary of State, cause the same to be recorded in the manner hereinbefore provided, and shall deliver the bond so executed to the persons entitled thereto.

SEC. 10. Two months prior to the time when any of the bonds mentioned in this Act shall have become due, if there shall be any of said bonds still outstanding and not surrendered for exchange, as in this Act provided, it shall be the duty of the commissioners, and they are hereby authorized, to negotiate and sell for cash at not less than par, a sufficient amount of said new bonds, as authorized by this Act, to redeem and pay the principal and interest of such old and outstanding and unexchanged bonds; and he shall pay the proceeds of said sales into the State treasury.

SEC. 11. In case the commissioners shall make such sale and negotiations in whole or in part, as in the preceding section provided, the State Auditor shall immediately notify the holder or holders of the outstanding and unsurrendered bonds that the State Treasurer will redeem said bonds at his office at the day when they are due, and that interest thereon will cease on said day.

SEC. 12. Upon presentation to the State Treasurer of any bond or bonds after its maturity, it shall be the duty of the State Treasurer to pay the same, with interest due thereon at the date of maturity; and said bond or bonds shall be cancelled and disposed of in a manner similar to that of bonds surrendered, as herein provided; and the Treasurer shall, from the date of such payment, be chargeable with such bond or bonds to be accounted for by the proceeds of the sale of bonds as herein provided, or in a return to and cancellation of such bond or bonds by the Auditor.

SEC. 13. For the prompt payment of the principal and interest of the bonds issued pursuant to the provisions of this Act, there is hereby annually set apart and appropriated from the general fund of the State treasury an amount sufficient to pay promptly the semi-annual interest as it becomes due.

SEC. 14. For the defraying of all expenses and charges to carry into effect this Act, the sum of two hundred dollars, or so much thereof as may be necessary, is hereby appropriated from the general fund.

SEC. 15. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved on the 10th day of February, 1899.

H. B. NO. 66.

AN ACT

PROVIDING A GREAT SEAL FOR THE STATE OF IDAHO.

WHEREAS, in compliance with a concurrent resolution adopted by the Legislature, a joint committee of both houses has devised and recommended a great seal for the State of Idaho, and submitted the same to the Legislature for its approval, Therefore,

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the design drawn and executed by Miss Emma Edwards, of Boise City, and reported and recommended by the select joint committee to devise a great seal for the State with the Latin motto "Esto Perpetua," be adopted, and is hereby made the great seal of the State of Idaho.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 67.

AN ACT

TO SECURE LIENS FOR MECHANICS, LABORERS, MATERIAL MEN AND OTHER PERSONS.

Be it enacted by the Legislature of the State of Idaho:

CHAPTER I.

Lien for Work on Buildings, etc., or for Materials Furnished.

SECTION 1. Every person performing labor upon or furnishing materials to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dike, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct to create hydraulic power or any other structure, or who performs labor in any mine or mining claim, has a lien upon the same for the work or labor done or materials furnished, whether done or furnished at the instance of the owner of the building or other improvement or his agent; and every contractor, sub-contractor, architect, builder or any person having charge of any mining or of the construction, alteration or repair either in whole or in part, of any building or other improvement, as aforesaid shall be held to be the agent of and owner for the purpose of this chapter: *Provided*, That the lessee or lessees of any mining claim shall not be considered as the agent or agents of the owner under the provisions of this chapter.

Lien on Municipal Buildings etc.

SEC. 2. Every sub-contractor, laborer or other person, who performs labor or furnishes material for any original contractor or sub-contractor to be used in the construction, alteration or repair of any building, machinery or other structure, for any county, city, town or school district has a lien upon such building, machinery or structure, and all the provisions of this chapter respecting the securing and enforcing of mechanic's lien shall apply thereto, so far as applicable.

Lien on Lot for Grading, Filling, etc.

SEC. 3. Any person who at the request of the owner of any lot in any incorporated city or town grades, fills in, or otherwise improves the same or the street in front of or adjoining the same, has a lien upon such lot for his work done or material furnished.

What Land or Interest is Subject to Lien.

SEC. 4. The land upon which any building, improvement or structure is constructed, together with a convenient space about the same, or so much as may be required for the convenient use and occupation thereof to be determined by the court on rendering judgment, is also subject to the lien, if, at the commencement of the work or of the furnishing of the material for the same, the land belonged to the person who caused said building, improvement or structure to be constructed, altered or repaired, but if such person owns less than a fee simple estate in such land, then only his interest therein is subject to such lien.

Mechanic's Liens are Preferred Claims to What Extent.

SEC. 5. The liens provided for in this chapter are preferred to any lien, mortgage or other incumbrance, which may have attached subsequent to the time when the building, improvement or structure was commenced, work done, or materials were commenced to be furnished: also to any lien, mortgage, or other incumbrance, of which the lien holder had no notice, and was unrecorded at the time the building, improvement or structure was commenced, work done, or the materials were commenced to be furnished.

Claim of Lien When to be Filed and What to Contain.

SEC. 6. Every original contractor claiming the benefit of this chapter must, within ninety days, and every other person must, within sixty days, after the completion of any building, improvement or structure, or after the completion of the alteration or repair thereof, or in case he cease to labor thereon before the completion thereof, then after he so ceases to labor or after he has ceased to labor thereon for any cause, or after he has ceased to furnish materials therefor, or after the performance of any labor in a mine or mining claim, file for record with the county recorder for the county in which such property or some part thereof is situated a claim containing a statement of his demand, after deducting all just credits and offsets, with the name of the owner, or reputed owner, if known, and also the name of the person by whom he was employed or to whom he furnished the materials, and also a description of the property to be charged with the lien, sufficient for identification, which claim must be verified by the oath of the claimant, his agent or attorney to the effect that the affiant believes the same to be just.

Claims Against Two or More Buildings—What to Designate, and Effect Of.

SEC. 7. In every case in which one claim is filed against two or more buildings, mines, mining claims, or other improvements, owned by the same person, the person filing such claim must at the same time designate the amount due him on each of said buildings, mines, mining claims, or other improvement, otherwise the lien of such claim is postponed to other liens. The lien of such claim does not extend beyond the amount designated as against other creditors having liens by judgment, mortgage, or otherwise, upon either of such buildings, or other improvements, or upon the land upon which the same are situated.

County Recorder to Keep Lien Record.

SEC. 8. The county recorder must record the claims mentioned in this chapter in a book kept by him for that purpose, which record must be indexed, as deeds and other conveyances are required by law to be in-

indexed, and for which he may receive the same fees as are allowed by law for recording deeds or other instruments.

Length of Time that Lien Binds Property.

SEC. 9. No lien provided for in this chapter binds any building, mining claim, improvement or structure for a longer period than six months after the claim has been filed, unless proceedings be commenced in a proper court within that time to enforce such lien; or, if a credit be given, then six months after the expiration of such credit; but no lien shall continue in force under this chapter for a longer period than two years from the time the work is completed, or credit given, unless proceedings to enforce the same shall have been commenced.

Contractor May Recover What—Rights of Owner and Contractor.

SEC. 10. The original or sub-contractor shall be entitled to recover upon the claim filed by him only such amount as may be due to him according to the terms of his contract, after deducting all claims of other parties for work done and materials furnished to him as aforesaid, of which claim of lien shall have been filed as required by this Act, and in all cases where a claim shall be filed under this chapter for work done or materials furnished to any sub-contractor, he shall defend any action brought thereupon at his own expense; and during the pendency of such action, the person indebted to the contractor may withhold from such contractor the amount of money for which claim is filed; and in case of judgment upon the lien, the person indebted in the contract shall be entitled to deduct from any amount due or to become due by him to such contractor, the amount of such judgment and costs and if the amount of such judgment and costs shall exceed the amount due from him to such contractor, if the person indebted in the contract shall have settled with such contractor in full, he shall be entitled to recover back from such contractor any amount so paid by him in excess of the contract price and for which such contractor was originally the party liable.

Judgment to Declare Priority—Proceeds, How to be Applied.

SEC. 11. In every case in which different liens are asserted against any property, the court in the judgment must declare the rank of each lien or class of liens which shall be in the following order:

FIRST. All laborers, other than contractors or sub-contractors.

SECOND. All material men, other than contractors or sub-contractors.

THIRD. Sub-contractors.

FOURTH. The original contractor.

And in case the proceeds of sale under this chapter shall be insufficient to pay all lienholders under it;

FIRST. The lien of all laborers, other than the original contractor and sub-contractor, shall first be paid in full, or pro rata, if the proceeds be insufficient to pay them in full.

SECOND. The lien of material men, other than the original contractor or sub-contractor, shall be paid in full, or pro rata, if the proceeds be insufficient to pay them in full.

THIRD. And out of the remainder, if any, the sub-contractors shall be paid in full, or pro rata, if the remainder be insufficient to pay them in full, and the remainder if any, shall be paid to the original contractor; and each claimant shall be entitled to execution for any balance due him after such distribution; such execution to be issued by the clerk

of the court upon demand, at the return of the sheriff or other officer making the sale, showing such balance due.

Claimants May Join in Action—Consolidation—Costs.

SEC. 12. Any number of persons claiming liens against the same property may join in the same action, and when separate actions are commenced, the court may consolidate them. The court shall also allow as part of the costs the moneys paid for filing and recording the claim, and reasonable attorney's fees.

Materials Furnished—Exemption of, From Attachment or Execution.

SEC. 13. Whenever materials shall have been furnished for use, in the construction, alteration or repair of any buildings, or other improvement, such materials shall not be subject to attachment, execution or other legal process, to enforce any debt due by the purchaser of such materials, except a debt due for the purchase money thereof so long as in good faith the same are being applied to the construction, alteration, or repair of such building, mining claim, or other improvement.

Right of Action to Recover Debt Not Impaired.

SEC. 14. Nothing contained in this chapter shall be construed to impair or effect the right of any person to whom any debt may be due for work done or materials furnished to maintain a personal action to recover such debt against the person liable therefor.

Liens May be Enforced by Civil Action and How.—

SEC. 15. Except as otherwise provided in this chapter, the provisions of the Code of Civil Procedure of the State of Idaho, relating to civil actions, new trials and appeals are applicable to, and constitute the rules of practice in the proceedings mentioned in this chapter; *Provided*, That the district courts of this State shall have jurisdiction of all actions brought under this chapter.

CHAPTER II.

Lien Upon Saw-Logs, Spars, Piles, etc., for Services Rendered.

SECTION 1. Every person performing labor upon, or who shall assist in obtaining or securing saw-logs, spars, piles, cord wood, or other timber, has a lien upon the same for the work or labor done upon or in obtaining or securing the same, whether such work or labor was done at the instance of the owner of the same or his agent. The cook shall be regarded as a person who assists in obtaining or securing the timber herein mentioned.

Lien Upon Saw-Logs Manufactured Into Lumber.

SEC. 2. Every person performing labor upon or who shall assist in manufacturing saw-logs into lumber has a lien upon such lumber while the same remains at the mill where manufactured, whether such work or labor was done at the instance of the owner of such logs or his agents.

Lien for Purchase Price Upon Logs, Spars, Piles, etc., Cut on One's Land.

SEC. 3. Any person who shall permit another to go upon his timber land and cut thereon, saw-logs, spars, piles, cordwood, or other timber has a lien upon such logs, spars, piles, cord wood and timber for the price agreed to be paid for such privilege or for the price such privilege would be reasonably worth in case there was no express agreement fixing the price.

Preferred Liens—Not Divested by Sale or Transfer.

SEC. 4. The liens provided for in this chapter are prior to any other liens, and no sale or transfer of any saw-logs, spars, piles, cord wood or

other timber or manufactured lumber shall divest the lien thereon as herein provided, and such lien shall follow such property into any county in this State into which the same may be removed: *Provided*, Notice of such lien shall have been filed in such county.

Time During Which Liener is Entitled to Lien.

SEC. 5. The person rendering the service or doing the work or labor named in sections one (1) and two (2) of this chapter is only entitled to the liens as provided herein for services, work or labor, for the period of eight calendar months, next preceding the filing of the claim, as provided in section seven (7) of this chapter.

Time During Which One Granting Privilege is Entitled to Lien.

SEC. 6. The person granting the privilege mentioned in section three (3) of this chapter is entitled to the lien as provided therein for saw-logs, spars, piles, cord wood and other timber cut during the eight months next preceding the filing of the claim, as provided in the next succeeding section of this chapter.

Verified Claim to be Filed—Form of—And to Show What.

SEC. 7. Every person within sixty days after the close of the rendition of the services, or after the close of the work or labor mentioned in sections one and two of this chapter, claiming the benefit hereof, must file for record with the county recorder of the county in which such saw-logs, spars, piles, cord wood or other timber was cut, or in which such lumber was manufactured, or if removed to another county then in such county, a notice of claim containing a statement of his demand, and the amount thereof, after deducting as near as possible, all just credits and offsets, with the name of the person by whom he was employed. The notice of claim shall state what such service, work or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien, sufficient for identification with reasonable certainty, which notice of claim must be verified by the oath of himself, his agent or attorney, to the effect that the affiant believes the same to be true, and such notice of claim shall be substantially in the following form:

.....claimant, vs.
 Notice is hereby given that.....of.....county, State of
 Idaho, claims a lien upon a.....of.....
 being about.....in quantity, which were cut in.....
county, State of Idaho, are marked thus.....
 and are now lying in.....for labor performed upon and
 assistance rendered in.....said.....;
 that the name of the owner or reputed owner is.....; that
employed said.....
 to perform such labor and render such assistance upon the following terms,
 to-wit: The said.....agreed to pay the said.....
 for such labor and assistance.....; that said contract has been
 faithfully performed and fully complied with on the part of said.....
 who performed labor upon and assisted in.....said.....
 for the period of.....that said labor and assistance were so per-
 formed and rendered upon said.....between the
day of.....and the
day of.....and the
 rendition of said services was closed on the.....day of

..... and days have not elapsed since that time; that the amount of claimant's demand for said services is; that no part thereof has been paid except and there is now due and unpaid thereon, after deducting all just credits and offsets, the sum of in which amount he claims a lien upon said.....

State of Idaho }
 County. } ss

....., being first duly sworn, on oath says that he is.....
 named in the foregoing claim, has heard the same read and knows the contents thereof, and believes the same to be true.....

Subscribed and sworn to before me this..... day of.....
 18..

One Claiming Lien for Purchase Price Must File Claim.

SEC. 8. Every person mentioned in section 3 of this chapter, claiming the benefit hereof, must, within ninety days after such cutting, file for record with the county recorder of the county in which such saw-logs, spars, piles, cord wood or other timber was cut, a claim in substance, the same as provided in the next preceding section of this chapter and verified as therein provided.

County Recorder to Keep Record of Liens.

SEC. 9. The county recorder must record any claim filed under this chapter in a book kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed and for which he may receive the same fees as are allowed by law for recording deeds or other instruments.

Length of time that Lien Binds Property.

SEC. 10. No lien provided for in this chapter binds any saw-logs, spars, piles, cord wood or other timber, or any lumber for a longer period than six calendar months after the claim as herein provided has been filed, unless a civil action be commenced in a proper court within that time to enforce the same.

Enforcement of Liens.

SEC. 11. Except as otherwise provided in this chapter the provisions of the Code of Civil Procedure of the State of Idaho, relating to civil actions, new trials and appeals are applicable to, and constitute the rules of practice in the proceedings mentioned in this chapter.

Lien may be Enforced Against Part or Whole of Property.

SEC. 12. Any person who shall bring a civil action to enforce the lien as herein provided for, or any person having a lien as herein provided for, who shall be made a party to any such civil action has a right to demand that such lien be enforced against the whole or any part of the sawlogs, spars, piles, cordwood or other timber or manufactured lumber, upon which he has performed labor or which he has assisted in obtaining or securing, or which has been cut on his timber land during the eight months mentioned in sections 5 and 6 of this chapter, for all his labor upon, or for all his assistance in obtaining or securing said logs, spars, piles, cordwood or other timber, or in manufacturing said lumber during

the whole or any part of the eight months mentioned in section 5 of this chapter, or for timber cut during the whole or any part of the eight months mentioned in section 6 of this chapter.

Lien Claimants May Join in Action—Consolidation—Costs.

SEC. 13. Any number of persons claiming liens against the same property under this chapter may join in the same action, and when separate actions are commenced, the court may consolidate them. The court shall also as part of the cost allow the moneys paid for filing and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

Judgments in Lien Cases and Enforcement Of.

SEC. 14. In such civil action judgments must be rendered in favor of each person having a lien for the amount due to him, and the court or judge thereof shall order any property subject to the lien herein provided for to be sold by the sheriff of the proper county in the same manner that personal property is sold on execution, and the court or judge shall apportion the proceeds of such sale for the payment of each judgment pro rata, according to the amount of such judgment.

Personal Property May be Sold When,—To Satisfy Lien.

SEC. 15. The court or judge may order any property subject to a lien as in this chapter provided to be sold by the sheriff as personal property is sold on execution, either before or at the time judgment is rendered as provided in the section next preceding, and the proceeds of such sale must be paid into court to be applied as in such section directed.

Liability for Interference with Property Subject to Lien.

SEC. 16. Any person who shall injure, impair, or destroy, or who shall render difficult, uncertain or impossible of identification, any saw-logs, spars, piles, cord wood, or other timber, upon which there is a lien as herein provided without the express consent of the person entitled to such lien, shall be liable to the lien holder for the damages to the amount secured by his lien, which may be recovered by civil action against such person.

CHAPTER III.

Farm Laborers' Liens.

SECTION 1. Any person who does any labor on a farm or land in tilling the same, or in cultivating, harvesting, or housing any crop or crops raised thereon has a lien on all such crop or crops for such labor, and such lien shall be a preferred and prior lien thereon to any crop or chattel mortgage placed thereon, and all chattel or crop mortgages of any crop or crops, upon which any person shall perform labor in cultivating, harvesting, or housing the said crop, shall take such mortgage subject to, and said mortgage shall be a subsequent lien to that of the person or persons performing such labor as to a reasonable compensation for such labor: *Provided*, That the interest in any crop of any lessor or lessors of land where the premises are leased in consideration of a share of the crop raised thereon is not subject to such lien.

Claim to be Verified and Filed—How Enforced.

SEC. 2. Any person claiming the benefit of this chapter, must within sixty days after the close of said work or labor filed for record with the county recorder of the county in which said work and labor was per-

formed, a claim which shall be in substance in accordance with the provisions of section 7, of chapter 2, of this Act, so far as the same may be applicable, which said claim shall be verified, as in said section provided, and said liens may be enforced in civil action, in the same manner, as near as may be, as provided in section 11 of chapter 2 of this Act.

Right of Action to Recover Debt Not Impaired.

SEC. 3. Nothing contained in this chapter or in chapter 2 shall be construed to impair or affect the right of any person to whom any debt may be due for work done, or for the price of any saw-logs, spars, piles, cord wood, or other timber, to maintain a personal action to recover such debt against the person liable therefor.

SEC. 4. Any person or persons who shall after the filing for record in the county recorder's office in the county in which said labor was performed, a claim of lien as in said Act provided, remove, dispose of, secret or destroy, or shall cause to be removed, disposed of, secreted or destroyed, or any person or persons who shall aid or assist in removing, disposing of, secreting, or destroying, any or all of the crop or crops covered by such lien, without the written consent of the lien claimant first obtained, until the enforcement of said lien or the payment of such lien claimant for his labor, shall be guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the county jail for not less than one, nor more than six months, or a fine of not less than twenty-five, nor more than five hundred dollars, or by both such fine and imprisonment.

CHAPTER IV.

Persons Preferred on Assignments for Benefit of Creditors.

SECTION 1. In all assignments of property made by any person to trustees or assignees, or in proceedings in insolvency, the wages of the miners, mechanics, salesmen, servants, clerks or laborers for services rendered within sixty days next preceding such assignment not exceeding one hundred and fifty dollars are preferred claims, and must be paid by such trustees or assignees before any creditor or creditors of the assignor or insolvent debtor: *Provided*, That whenever any such miner, mechanic, salesman, servant, clerk or laborer has filed a notice of lien against any property of the assignor, he may elect between the provisions of this section and his lien.

Same Against Estate.

SEC. 2. In case of the death of any employer the wages of each miner, mechanic, salesman, clerk, servant and laborer for services rendered within the sixty days next preceding the death of the employer not exceeding one hundred and fifty dollars, rank in priority next after the funeral expenses; expenses of the last sickness, the charges and expenses of administering upon the estate, and the allowance to the widow and infant children, and must be paid before any other claims against the estate of the deceased person.

Same in Case of Execution and Attachment.

SEC. 3. In cases of executions, attachments and writs of similar nature issued against any person or his property, except for claims for labor done, any miners, mechanics, salesmen, servants, clerks or laborers who have claims against the defendant for labor done upon the property levied on may give notice of their claim and the amount thereof, sworn

to by the person making the claim, to the creditor or his agent or attorney and the officer executing any of such writs, at any time before the actual sale of the property levied upon; and, unless such claim is disputed by the debtor or creditor, such officer must pay to such person out of the proceeds of the sale of any property on which such person has bestowed labor the amount he is entitled to receive for his services rendered within the sixty days next preceding the levy of the writ. If any, or all other claims so presented and claiming preference under this section are disputed by either the debtor or a creditor, the person presenting the same must commence an action within ten days for the recovery thereof and must prosecute his action with due diligence or be forever barred from any claim of priority of payment thereof; and the officer shall retain possession of so much of the proceeds of the sale as may be necessary to satisfy such claim until the determination of such action; and in case judgment be had for the claim or any part thereof carrying costs the costs taxable therein shall likewise be a preferred claim with the same rank as the original claim.

Debtor or Creditor Shall File Statement.

SEC. 4. The debtor or creditor intending to dispute a claim presented under the provisions of the last section shall within ten days after receiving notice of such claim, served upon the claimant and the officer executing the writ, a statement in writing verified by the oath of the debtor or the person disputing such claim, or his agent or attorney, setting forth that no part of said claim or not exceeding a sum specified is justly due from the debtor to the claimant for services rendered within the sixty days next preceding the levy of the writ. If the claimant brings suit on a claim which is disputed in part only, and fail to recover a sum exceeding that which was admitted to be due, he shall not recover costs, but costs shall be adjudged against him.

CHAPTER V.

Of the Construction of this Act Relating to Liens.—Construction of Various Terms.

SECTION 1. In construing the provisions of this Act, words used in the masculine gender include the feminine, and neuter, the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as a natural person; and the word "writing" includes printing.

Provisions to be Liberally Construed.

SEC. 2. This Act establishes the law of this State, respecting the subject to which it relates, and its provisions and all proceedings under it are to be liberally construed with a view to effect this object.

SEC. 3. Title 4 of part 3, of the Code of Civil Procedure of the State of Idaho, and all acts amendatory thereof are hereby repealed.

SEC. 4. An emergency existing therefor, this Act shall take effect from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 68.

AN ACT

FOR THE ORGANIZATION OF THE MILITIA OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The militia of the State of Idaho shall consist of all able bodied male persons, residents of the State, between the ages of eighteen and forty-five years, excepting such persons as are now or may hereafter be exempted by the laws of this State or of the United States.

SEC. 2. The Governor of this State, as commander-in-chief of the militia, shall appoint such of the following named officers on his staff as in his discretion the growth of the Idaho national guard shall demand, viz: Adjutant-general, inspector-general, quartermaster-general, commissary-general of subsistence, a paymaster-general, judge advocate-general, surgeon-general, who shall be a practicing physician, and a mustering officer, each with the rank of colonel of cavalry, and six aides-de-camp, with the rank of lieutenant-colonel of cavalry. He may appoint such clerks as the adjutant-general may require, for the proper discharge of the duties appertaining to that office, and shall require the quartermaster-general, the paymaster-general and commissary-general of subsistence, each, to execute a bond in the penal sum of five thousand (\$5,000) dollars, conditioned upon their proper care and accounting for such public property and moneys as may be in their official charge.

SEC. 3. It shall be the duty of the adjutant-general to promulgate all orders from the commander-in-chief; to attend all musters when the commander-in-chief reviews the national guard, or any portion thereof; to obey all orders from him relative to carrying into execution, or perfecting, the system of military discipline established by law; to furnish blank forms of reports and returns and of all official papers that may be required, and to explain the principles upon which they should be made out; to receive from commanding officers throughout the State returns of the national guard under their command; to make the proper abstracts from such returns and lay the same before the commander-in-chief annually, and to make annual returns of the militia of the State to the President of the United States; he is charged with all the correspondence of the commander-in-chief on the subject of military affairs; he shall countersign all commissions signed by the commander-in-chief and record the same; he shall keep a record of all official correspondence in books prepared for that purpose; he shall be entitled to receive a compensation of five hundred dollars per annum, to be paid quarterly out of the military fund, in the same manner as other salaries of State officers are paid.

SEC. 4. The inspector-general shall inspect, as often as may be deemed necessary by the commander-in-chief, every branch connected with the military service of the State, including the rifle practice, the transaction of company business, the condition of public property, armories, military storehouses and camps; and he shall report to the commander-in-chief, annually, on the first day of December, the condition, discipline and tactical instructions of the national guard, as well as all matters pertaining to his department.

SEC. 5. The quartermaster-general shall receive and be responsible for all arms, ammunition and ordnance stores and all clothing and equipage received by the State of Idaho; shall issue the same on requisitions properly approved by the commander-in-chief. He shall have

charge of all armories and military storehouses, and shall keep them in repair to such extent as he may be furnished with funds for that purpose. The accounts of his department shall be kept in proper books and by the necessary blank forms, which shall be furnished by the adjutant-general's office. He shall render an annual report on the 1st day of December to the commander-in-chief, embracing the operations of his office for the year, and such recommendations as he may deem for the best interests of the service.

SEC. 6. The paymaster-general's office shall be the channel through which vouchers for military service, supplies and transportation shall be transmitted to the State Auditor. The paymaster-general shall countersign all such vouchers properly certified, citing the Act of the Legislature which appropriates the necessary funds, and transmit the same to the State Board of Examiners. He shall keep himself informed of the condition of the military fund, and to this end the State Treasurer is directed to furnish such information whenever requested by the paymaster-general. He shall pay the national guard when called into service, and shall keep his official accounts in proper books, to be furnished his office, on requisition, by the adjutant-general. He shall, annually, on the first day of December, and at such other times as may be indicated by the commander-in-chief, render to him an itemized account of all the operations of his office, embracing such recommendations as he may deem for the best interests of the service.

SEC. 7. The judge advocate-general is charged with the supervision, care and management of all matters relating to the administration of justice among the military forces of the State, and shall, annually, on December 1st, make a report thereof to the commander-in-chief.

SEC. 8. The commissary-general of subsistence, surgeon-general and mustering officer shall perform the duties of their respective offices, subject to such rules and regulations as may be prescribed, and to such orders as may be issued by the commander-in-chief for their government and instruction; they shall also make, annually, on the first day of December, a report of the condition and operation of their offices to the commander-in-chief.

SEC. 9. Every commissioned officer of the Idaho national guard shall take the oath of office within ten days, and provide himself with a suitable uniform, arms and equipments within sixty days, from the date of his election or appointment, or he shall be deemed to have resigned his commission.

SEC. 10. Each regiment shall consist of not less than eight nor more than twelve companies, and shall have a colonel, lieutenant-colonel, a major, a surgeon, with the rank of major; an assistant surgeon, with the rank of captain; an adjutant and quartermaster, each with the rank of first lieutenant; a chaplain, with the rank of captain, and a non-commissioned staff, to consist of a sergeant-major, a quartermaster-sergeant, a commissary-sergeant, a hospital steward and two principal musicians. Every battalion of four companies shall have a major, with an adjutant and quartermaster detailed for these duties from the first lieutenants of the companies composing the battalion by the commander-in-chief, on recommendation of the major. A battalion of six companies shall have a lieutenant-colonel and a major, together with an adjutant and quartermaster, detailed from the first lieutenants of the companies composing

the battalion by the commander-in-chief, on the recommendation of the lieutenant-colonel; a chaplain, a sergeant-major, quartermaster-sergeant, commissary-sergeant, and hospital steward. A battalion or a regiment shall have but one band to consist of a drum-major, a leader, with the rank of sergeant-major, and as many musicians, who must be enlisted in the regiment or battalion, as the commanding officer may designate, not to exceed twenty.

SEC. 11. Regimental and battalion field officers shall be elected by the officers and enlisted men of the respective regiments and battalions. Officers of the regimental and battalion staff shall be appointed and commissioned by the commander-in-chief, on the recommendation of the regimental or battalion commander. The non-commissioned staff shall be appointed by the regimental or battalion commander.

SEC. 12. Each company shall consist of a captain, a first lieutenant, second lieutenant, first sergeant, four sergeants, four corporals, at least two musicians, and not less than twenty-four nor more than eighty-three privates. The armory of each company shall be considered as post headquarters, and the commander of a company empowered to appoint an acting quartermaster, who must be a commissioned officer, and an acting quartermaster-sergeant, who must be enlisted in the company. Captains and lieutenants shall be elected by written or printed ballots, cast by the enlisted men of the respective companies. Company non-commissioned officers shall be appointed by the company commander, to serve as such during good behavior.

SEC. 13. It shall be the duty of the assessor of each county in the State, annually, at the time prescribed by law for assessing property, to make out a list of all persons in the respective counties who are liable to do military duty, under the laws of the United States and of the State of Idaho, which list shall designate the precinct in which each person named in such list resides, and shall be filed by such assessor in the office of the county auditor of the respective counties, at the same time and in the same manner as is provided by law for the assessment roll; and the auditor shall keep the same open for inspection, as is provided by law for the assessment roll, and also record the same alphabetically in his office in a book to be kept for that purpose.

SEC. 14. The said military assessment list shall be corrected in the same manner and at the same time as is provided by law for the assessment roll; and it shall be the duty of the county auditor of each county, within twenty days after the list has been corrected, to transmit to the adjutant-general of the State a certificate, under his official seal, of the total number of names on such military assessment list, arranged according to the several precincts of the county.

SEC. 15. All persons subject to military duty under the laws of the United States and of the State of Idaho, and such other male persons as shall voluntarily enroll themselves, shall be divided into two classes, to wit: One consisting of those who enlist in the active militia of the State, under the provisions of this title, which shall be known as the Idaho national guard; the other to consist of all those subject to military duty, but not included in the active or enlisted militia; the latter class to be known as the Idaho reserve militia.

SEC. 16. The following named classes of persons are exempt from military duty:

FIRST.—All persons in the army or navy or volunteer forces of the United States, and those who have been honorably discharged therefrom.

SECOND.—All regularly ordained ministers of the gospel, and all practicing physicians.

THIRD.—Idiots, lunatics, paupers, habitual drunkards and persons convicted of infamous crimes, who have not been restored to citizenship.

SEC. 17. All enlistments in the Idaho national guard shall be for the term of three years. The term of service for officers of the line shall be three years; for officers of the staff, two years, or during the pleasure of the commander-in-chief.

SEC. 18. All enlistments in the Idaho national guard shall be made by signing the muster roll of the company and its regulations and by-laws; as soon as practicable after his enlistment, the following oath or affirmation shall be administered to the recruit by any commissioned officer:

“I, do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of Idaho; that I will serve them honestly and faithfully, and that I will obey the orders of the officers appointed over me, in accordance with the laws, and the rules and regulations for the government of the Idaho national guard.”

SEC. 19. There may be expended, under the direction of the commander-in-chief, annually, in each county of the State, out of the general fund, but not to exceed one hundred dollars, and, in addition thereto, the county commissioners of each county may, in their discretion, expend, annually, not to exceed one hundred and fifty dollars out of the county current expense fund, for rent or purchase of armory buildings for the use of such companies of the Idaho national guard as organize under the provisions of this Act, and which shall meet at least once in each month in such armory for military instruction. At such meetings the commanding officer of such companies, or some suitable person detailed by him, shall drill the company not less than two hours in the school of the soldier, the manual of arms, and the movements of the company.

SEC. 20. The commander-in-chief may order courts-martial for the trial of officers and enlisted men at such times as the interest of the service may require, courts of inquiry may be ordered by the commander-in-chief to examine into the nature of any transaction of, or accusation or charge against, any officer or soldier. Regimental and battalion courts-martial and courts of inquiry may be convened by order of commandants of regiments and battalions, approved by the commander-in-chief; garrison courts-martial shall be convened by order of the commandants of companies, approved by battalion commanders. All courts-martial and courts of inquiry shall be organized and governed, as near as may be, in conformity with the articles of war and the regulations established for the government of the United States army; and the proceedings, findings and sentences thereof shall be reviewed by the judge advocate-general, and shall be submitted by him to the commander-in-chief for his action.

SEC. 21. The president of a court-martial or court of inquiry may issue an order to enforce the attendance of witnesses, and punish a refusal to be sworn or to answer, in the same manner as is provided for a magistrate in civil actions.

SEC. 22. When fines assessed by courts-martial or courts of inquiry are not paid within thirty days after the sentences are approved, a list

thereof and of the delinquents, certified by the judge advocate of such courts-martial or courts of inquiry, shall be placed in the hands of justices of the peace within the precincts in which the delinquents reside, who shall thereupon render judgment and proceed to collect the same, as in other civil actions.

SEC. 23. Honorable discharges of officers from service in the national guard of Idaho may be granted by the commander-in-chief upon expiration of the term of service, or in case of removal, on evidence being furnished him that the officer is not indebted to the State of Idaho and is not responsible for any public property. No enlisted man shall be discharged before the expiration of his term of service, except by order of the commander-in-chief, and for the following reasons: To accept promotion by commission; upon removal of residence from the State, or permanent removal to such distance from the command to which he belongs, that, in the opinion of his commanding officer, he cannot perform his military duties; upon disability, established by the certificate of a medical officer, whenever, in the opinion of the commander-in-chief, the interests of the service demand such discharges. Dishonorable discharges of officers and enlisted men shall be published by the commander-in-chief in court-martial orders, in pursuance of sentence of court-martial or court of inquiry.

SEC. 24. Officers traveling on duty in compliance with orders from or approved by the commander-in-chief shall be paid mileage at the same rates as are provided by law for the members of the State Legislature.

SEC. 25. The officers and enlisted men of the Idaho national guard, when called into active service by proclamation of the commander-in-chief, shall receive the same rates of pay and subsistence as, and the uniform and equipments shall be identical with, those provided by the United States for the regular army.

SEC. 26. All officers and enlisted men of the Idaho national guard are hereby declared exempt from all poll or road tax and jury duty, so long as they continue active members thereof.

SEC. 27. The adjutant-general shall require proper bonds to be given by all officers who have military stores in their possession, with good and satisfactory sureties, conditioned on the safe keeping of public property and the faithful accounting for the same; said bonds to be approved by the commander-in-chief and filed in the office of the adjutant-general before any public property is turned over to applicants.

SEC. 28. It shall be the duty of the Governor of Idaho, as commander-in-chief, to formulate a system of regulations for the Idaho national guard, founded upon the militia law enacted in this title, which regulations shall have all the force and virtue of law, when promulgated by the adjutant-general.

SEC. 29. For the contingent expenses of the adjutant general's office, there is hereby appropriated the sum of two hundred and fifty-five dollars, annually, out of the general fund, or so much thereof as the adjutant-general may sign requisitions for. And the State Treasurer is hereby authorized and directed to pay the said requisitions upon a warrant therefor by the State Auditor upon bill approved by the State Board of Examiners.

SEC. 30. The commander-in-chief shall have power, in case of invasion, insurrection or other breaches of the peace, or imminent danger

thereof, to order into the service of the State any of the companies or regiments of the Idaho national guard, or the reserve militia, that he may deem proper, and under the command of such officers as he may designate.

SEC. 31. The system of tactics and field exercises from time to time ordered for the army of the United States shall be the system of tactics and field exercises of the Idaho national guard.

SEC. 32. For the purpose of defraying the current expenses of the Idaho national guard and of arming and equipping the companies thereof as they are organized, there is hereby appropriated out of the general fund for the year 1891 the sum of \$2,100, and for the year 1892 the sum of \$2,200, or so much thereof as may be necessary.

SEC. 33. All payments from the military fund shall be made to the paymaster-general, in compliance with regular appropriations by due legislative action, upon vouchers approved by the commander-in-chief and countersigned by the adjutant-general, upon warrants drawn by the State Auditor, who shall cause a record of such vouchers to be kept in his office.

SEC. 34. It shall be the duty of the State Treasurer to prepare and submit to the Governor, in his annual report, and whenever the Governor shall require it, an account of the condition of the military fund, comprising the amounts placed to the credit of said fund, and the several items of disbursement therefrom made during the said period, by due authority of law, arranged so as to show the balance of the said fund remaining unexpended at the close of each calendar year.

SEC. 35. The adjutant-general, the quartermaster-general and the paymaster-general are hereby constituted a board which shall meet at the State capitol shortly before the biennial sessions of the State Legislature, or at the call of the commander-in-chief, to prepare an "estimate of the expenses of the militia establishment" for the ensuing two years. The board may have access to all accounts and papers in the office of the State Treasurer bearing upon the subject of the receipt and disbursement of public funds for militia purposes, which "estimate" shall be submitted to the Governor of the State for his consideration in time to be transmitted by him to the Legislature.

SEC. 36. Unexpended balance remaining on the 31st day of December in each year to the credit of either the military fund, or the contingent fund of the adjutant-general's office, shall be turned over to the general fund of the State by the State Treasurer in opening his books of account for the new fiscal year.

SEC. 37. The commander-in-chief of the State militia may, when he deems it necessary for the good of the service, direct that an annual encampment be held at the time and place thereof to be designated in general order.

SEC. 38. All acts and parts of acts in conflict with this Act be and the same are hereby repealed.

SEC. 39. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 69.

AN ACT

TO PROVIDE FOR THE EDUCATION OF THE DEAF, DUMB AND BLIND.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated, annually, the sum of three thousand dollars (\$3,000), or so much thereof as may be necessary, for the education of the deaf, dumb and blind of this State, under the direction of the State Board of Education, and the Treasurer shall pay the same on the warrant of the Auditor for that purpose.

SEC. 2. The said Board of Education shall enter into contract with some one of the adjacent States or Territories (having an institution for the education of the deaf and blind), for the education of the deaf, dumb and blind of the State of Idaho upon the most economical terms possible.

SEC. 3. It shall be the duty of the Board of Education to ascertain the number of deaf, dumb and blind in the State, of school age and sound mind and body, whose parents are not able to provide for their education, and, as soon as practicable thereafter, take the necessary steps for their education as provided for in section 2 of this Act.

SEC. 4. The State or Territory in which such institution for the education of the deaf, dumb and blind is located, as designated by the said Board of Education, shall be paid from the appropriation made in section 1 of this Act, at the rate of not to exceed three hundred dollars a year for each scholar's instruction and board, including board during vacation, on the certificate of the State Board of Education to be furnish to the State Auditor.

SEC. 5. The State Board of Education is authorized to provide for the careful examination of all applicants for admission to the institution designated, and to audit and certify to the State Auditor all accounts for the expenses of designating said institution and conducting examinations, and all contingent expenses attending the same, and the accounts thereof shall be paid from the appropriation for this purpose made in section 1 of this Act.

SEC. 6. This Act shall take effect and be in force from and after its passage and approval, an emergency existing therefor.

Approved on the 7th day of February, 1899.

H. B. NO. 70.

AN ACT

TO PROVIDE THE MANNER OF PROPOSING AMENDMENTS TO THE CONSTITUTION AND SUBMITTING THE SAME TO THE ELECTORS OF THIS STATE, AND THEIR ENROLLMENT AND PRESERVATION.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That amendments to the Constitution may be proposed by joint resolution in either house of the Legislature of this State, and if the same shall be voted for by two-thirds of all the members of each of the two houses, voting separately, in the manner provided by section one (1), of article twenty (20), of the Constitution, the amendment or amendments proposed shall be submitted to the electors of this State for adoption or rejection in the manner provided by the election laws of the State.

SEC. 2. Whenever any amendments to the Constitution shall have been proposed to and adopted by the electors of this State, as by this

Act provided, the same shall be enrolled and numbered in the order of time in which they may be adopted, and preserved by the Secretary of State among the public records of his office.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 71.

AN ACT

TO PROVIDE FOR THE APPOINTMENT, DUTIES AND COMPENSATION OF STENOGRAPHIC REPORTERS OF THE DISTRICT COURTS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. There shall be appointed within and for each of the judicial districts of this State, by the district judge, a stenographic reporter, who shall be well skilled in the art of stenography, and capable of reporting the oral proceedings in court verbatim.

SEC. 2. Said reporter shall take the oath required to be taken by judicial officers; give a bond to be approved by the judge of the district court, in the sum of five thousand dollars, conditioned for the faithful discharge of his duties, which bond shall be filed in the office of Secretary of State, hold his office during the pleasure of said judge, and receive a salary of one thousand dollars per annum, to be paid in the same manner as the salaries of other State officers are paid. There shall be paid, in addition to said salary, to each of the stenographic reporters of the district courts, out of the State treasury, for each term of a district court, held by the judge thereof, for the trial and disposition of causes and the transaction of business under the laws of the State, in other counties than that in which said stenographic reporter resides, his expenses, not exceeding twenty-five dollars for traveling and attending each term.

SEC. 3. The said reporter shall correctly report all oral proceedings had in said court and the testimony taken in all cases tried before said court, but the parties may, with the consent of the judge, waive the recording by such reporter of any part of the proceedings of testimony.

SEC. 4. The reporter shall file the stenographic records and reports made by him with the clerk of the district court of the county in which such report was taken and was tried.

SEC. 5. It shall be the duty of each reporter to furnish, on the application of the Attorney General, district attorney, or any party to a suit in which a stenographic record has been made, a type written copy of the record, or any part thereof, for which he shall be entitled to receive in addition to his salary, a fee of fifteen cents per hundred words, to be paid by the party requesting the same and to be taxed as costs in the case against the party finally defeated in the action: *Provided*, When such copy is requested on behalf of the State, or its attorney, or by a defendant in a criminal case or his attorney, and where after conviction the defendant in a criminal case shall satisfy the court by affidavit or otherwise, that he is unable by reason of his poverty to pay for such copy, so requested by himself or his attorney, the stenographer shall receive a fee of ten cents per hundred words therefor, to be paid in the same manner as other costs in criminal cases are paid: *Provided*, That he shall not in any criminal case receive more than one hundred and fifty dollars, when the same is to be paid by the county, and when so requested by the defendant or his attorney

it shall be the duty of the stenographic reporter to furnish the State or its attorney, a copy of such record, without further compensation therefor. Such copy of the record shall constitute prima facie the minutes of the court and may be used on all motions for new trials, review or appeal, when the minutes of the court may be used.

SEC. 6. It shall be the duty of the reporter to deliver said copy within thirty days after being requested.

SEC. 7. The plaintiff in all civil actions hereafter commenced in the district courts, at the time of filing the complaint in such action, shall pay to the clerk of said court the sum of three dollars, which sum said clerk shall, on the first Monday of each month after the receipt thereof, pay into the State treasury, and it shall be placed by the State Treasurer to the credit of the general fund.

SEC. 8. That "An Act for the appointment of a court stenographic reporter in each judicial district of Idaho Territory," approved February 4, 1889, and all acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 9. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 72.

AN ACT

PROVIDING FOR THE DIVIDING OF COUNTIES INTO COMMISSIONERS DISTRICTS, AMENDING SECTION 1748 REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1748 of the Revised Statutes of Idaho be amended to read as follows: Section 1748. At the regular meeting in July, preceding any general election, the board of commissioners must district their county into three districts, as nearly equal in population as may be, to be known as county commissioners districts, numbers 1, 2 and 3 respectively; but in making such districts, no voting precinct shall be divided: *Provided*, That when a new county shall have been created, or the boundary lines of a county shall have been changed, then the board of commissioners of such counties may district their county at any general or special meeting of such board.

SEC. 2. Whereas an emergency exists, this Act shall take effect and be force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 73.

AN ACT

TO ESTABLISH A STATE NORMAL SCHOOL AT LEWISTON, IN THE COUNTY OF NEZ PERCE, IDAHO, AND TO CREATE A BOARD OF TRUSTEES FOR THE MANAGEMENT THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That a normal school for the State of Idaho is hereby established in the City of Lewiston, in the County of Nez Perce, to be called the Lewiston State Normal School, the purpose of which shall be for training and educating teachers in the art of instruction and governing in the public schools of this State, and of teaching the various branches that pertain to a good common school education: *Provided*, That the mayor and city council of the said city of Lewiston, shall, prior to the

first day of May, eighteen hundred and ninety-three, donate to the board of trustees hereinafter named, as a site for the use of the said Lewiston State Normal School, ten acres of land, within the limits of the said City of Lewiston, known and described as a part of the city park of Lewiston, and shall convey the same by a good and perfect title in fee simple to said board of trustees, who are hereby authorized and empowered to receive and hold the same, and the title thereto, in trust and for the use of the said Lewiston State Normal School. And the mayor and city council of the said city of Lewiston are hereby authorized and empowered to convey said site of ten acres, to the said board of trustees as aforesaid.

SEC. 2. The said Lewiston State Normal School shall be under the direction of a board of trustees to be known as "the Board of Trustees of the Lewiston State Normal School." The said board of trustees shall consist of six members, to wit: J. M. Howe, B. F. Morris, C. W. Shaff, Ben Wilson, Norman B. Willey and J. W. Reid, who shall, at their first meeting, determine by lot their respective terms of office, which shall be for two, four and six years, and their successors shall be appointed for the term of six years by the Governor of the State of Idaho, by and with the advice and consent of the Senate. Before entering upon the duties of his office, each of said trustees shall take and subscribe an oath or affirmation before some person duly authorized to administer the same, that he will support the Constitution of the United States and the State of Idaho, and will faithfully and impartially discharge the duties of the office of trustee of the Lewiston State Normal School, which oath or affirmation shall be filed in the office of the Secretary of State.

SEC. 3. The said board of trustees may conduct its proceedings in such manner as will best conduce to the proper dispatch of business. A majority of the board of trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. No member of said board of trustees shall participate in any proceeding in which he has any pecuniary interest. Every vote and official act of the said board of trustees shall be entered of record. Said board of trustees shall have an official seal, which shall be judicially noticed. Said board of trustees may sue and be sued. No vacancy in the board of trustees shall impair the right of the remaining trustees to exercise all the powers of the said board of trustees. At their first meeting, and annually thereafter, the said board of trustees shall elect from their number a president and a secretary. The State Treasurer shall be ex-officio treasurer of said board of trustees. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and an itemized account of all expenditures authorized by said board.

SEC. 4. The said board of trustees are hereby authorized, and it is made their duty, to take and at all times to have general supervision and control of all buildings and property appertaining to said Normal School; and to have general charge and control of the construction of all buildings to be built. They shall have power to let contracts for building and completion of any such buildings, and the entire supervision of their construction.

SEC. 5. One-half of all funds appropriated for the use and benefit of normal schools in the State of Idaho, from every source, including sales

of land donated by the government of the United States to the State of Idaho, for the establishment and maintenance of State normal schools, shall be under the direction and control of the said board of trustees subject to the provisions herein contained. The treasurer of the board shall pay out of such funds all orders or drafts for money to be expended under the provisions of this Act. Such orders or drafts to be drawn by the State Auditor on certificates of the secretary countersigned by the president of the said board of trustees. No such certificates shall be given except upon accounts audited and allowed by the said board: *Provided*, The board of trustees of said Lewiston State Normal School, may use all of the funds in the State treasury arising from the sale of any part of said lands, until such time as another State normal school shall be established: and, *Provided, further*, not more than fifty thousand (50,000) acres of said lands shall ever be sold for said purpose of establishing and maintaining the Lewiston State Normal School, and said board of trustees shall never use more of said funds than necessary for the purpose of carrying out the provisions of this Act.

SEC. 6. The board of trustees shall hold two regular meetings annually, at the said city of Lewiston, but special meetings may be called by the president of the board by sending written notice at least ten days before such meeting, to each member.

SEC. 7. The board of trustees shall have power to elect a principal and all other teachers that may be deemed necessary, to fix the salaries of the same and to prescribe their duties. They shall have power to remove either the principal, assistant or teachers, and appoint others in their stead.

SEC. 8. It shall be the duty of the board of trustees to prescribe the course of study and the time and standard of graduation, and to issue such certificates and diplomas as may from time to time be deemed suitable. These certificates and diplomas shall entitle the holder to teach in the public schools of any county in this State for the time and in the grade specified in the certificate or diploma.

SEC. 9. The board of trustees shall prescribe the text books, apparatus, and furniture, and provide the same, together with all necessary stationery for the use of pupils.

SEC. 10. The board of trustees, shall, when deemed expedient, establish and maintain a training or model school or schools, in which the pupils of the normal school shall be required to instruct classes under the supervision and direction of experienced teachers.

SEC. 11. The board of trustees shall ordain such rules and regulations for the admission of pupils to said normal school as they shall deem necessary and proper. All classes may be admitted into the said normal school who are admitted without restriction into the public schools of the State: *Provided*, The applicant, if a male, must be not less than sixteen years of age, or if a female, not less than fifteen years of age. Applicants must also present letters of recommendation from the county superintendent of public instruction of the county in which they reside, certifying to their good moral character, and their fitness to enter the normal school. Before entering, all applicants must sign the following declaration: "We hereby declare that our purpose in entering the Lewiston State Normal School is to fit ourselves for the profession of teaching, and that it is our intention to engage in teaching in the public schools of this State."

SEC. 12. Pupils from other States and Territories may be admitted to all the privileges of the said normal school, on presenting letters of recommendation from the Executive or State School Superintendent thereof and the payment of one hundred dollars. Pupils from other States shall not be required to sign the declaration named in the foregoing section.

SEC. 13. Lectures in chemistry, comparative anatomy, agricultural chemistry, and any other science or any other branch of literature that the board of trustees may direct, may be delivered to those attending such school in such manner and on such conditions as the board of trustees may prescribe.

SEC. 14. The actual and necessary personal expenses incurred by the members of said board of trustees, in carrying out the provisions of this Act, shall be paid on the proper certificate out of any funds, belonging to said normal school in the hands of the treasurer.

SEC. 15. It shall be the duty of the Governor of the State to fill by appointment all vacancies that may, from any cause occur in the said board of trustees.

SEC. 16. The president and secretary of the board of trustees shall on the first day of January of each year, transmit to the Governor of the State, a full report of the doings of the said board of trustees, the progress and condition of the said normal school, together with a full report of the expenditures of the same for the previous year, setting forth each item in full, and the date thereof, and such recommendations as they deem proper for the good of said normal school.

SEC. 17. The board of trustees in their regulations, and the principal and assistants in their supervision and government of the said school, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance upon the same, but no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in said school.

SEC. 18. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 74.

AN ACT

DEFINING RAPE, AND RAISING THE AGE OF CONSENT, AMENDING SEC. 6765 REVISED STATUTES OF IDAHO, AS AMENDED BY ACT OF JAN. 31, 1893.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 6765 of the Revised Statutes is hereby amended to read as follows:

Section 6765. Rape is an act of sexual intercourse accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

FIRST. Where the female is under the age of eighteen years;

SECOND. Where she is incapable through lunacy, or any other unsoundness of mind, whether temporary or permanent of giving legal consent.

THIRD. Where she resists, but her resistance is overcome by force or violence.

FOURTH. Where she is prevented from resisting by threats of immediate and great bodily harm, accompanied by apparent power of execution; or

by any intoxicating narcotic, or anæsthetic substance administered by or with the privity of the accused.

FIFTH. Where she is at the time unconscious of the nature of the act, and this is known to the accused.

SIXTH. Where she submits under a belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

SEC. 2. All acts so far as they are inconsistent with the provisions of this Act are hereby repealed.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 75.

AN ACT

DEFINING PUBLIC HIGHWAYS AND PROVIDING HOW THE SAME MAY BE ESTABLISHED; AMENDING SECTION 851 OF THE REVISED STATUTES OF IDAHO, AND AMENDING ARTICLE 6 OF CHAPTER 2 OF TITLE VI OF THE POLITICAL CODE OF IDAHO BY ADDING THERETO SECTIONS 938 AND 939.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That Article 6, of Chapter 2, of Title 6, of the Political Code of Idaho, be amended by adding thereto sections 938, 939, as follows:

Section 938. Public roads may be established without the appointment of viewers, provided the written consent of all the owners of the land to be used for that purpose be first filed with the board of county commissioners, and if it is shown to the satisfaction of the county board that the proposed road is of sufficient public importance to be opened and worked by the public, they shall make an order establishing the same, from which time only, shall it be regarded as a public road.

Section 939. If a survey for the establishment of the road named in the preceding section is necessary, the board, before ordering such survey, may require the party or parties asking for the establishment of such highway to pay, or secure the payment by proper bond, of the expenses of such survey.

SEC. 2. That section eight hundred and fifty-one of the Revised Statutes, be amended so as to read as follows:

Section 851. Roads laid out and recorded as highways, by order of the board of commissioners, and all roads used as such for a period of five years, provided the latter shall have been worked and kept up at the expense of the public or located and recorded by order of the board of commissioners, are highways. Whenever any corporation owning a toll-bridge, or a turnpike, plank, or common wagon road is dissolved or discontinues the road or bridge, or has expired by limitation, the bridge or road becomes a highway.

SEC. 3. All acts and parts of acts inconsistent with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 76.

*AN ACT*AUTHORIZING AN OFFICER TO COMMAND ASSISTANCE IN CASE OF RESISTANCE OF PROCESS;
AMENDING SECTION 7400 OF THE REVISED STATUTES OF IDAHO.*Be it enacted by the Legislature of the State of Idaho:*

SECTION 1. Section 7400 of the Revised Statutes of Idaho is hereby amended to read as follows:

Section 7400. When a sheriff or other public officer, authorized to execute process, finds, or has reason to apprehend, that resistance will be made to the execution of the process, he may command as many bona fide male citizens residents of his county, as he may think proper to assist him in overcoming the resistance, and, if necessary, in seizing, arresting and confining the persons resisting, their aids and abettors.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 77.

AN ACT

TO PROVIDE FOR THE INCORPORATION OF INSTITUTIONS OF LEARNING.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That any number of persons not less than five, may form a corporation to found, establish and maintain a college, academy, seminary or other institution of learning by executing and filing articles of incorporation in the manner provided by law for private corporations.

SEC. 2. The articles of incorporation shall set forth:

FIRST.—The name of the corporation;

SECOND.—The purposes for which it is formed;

THIRD.—The place where the institution is to be located;

FOURTH.—The number of its directors or trustees, and the names and addresses of those who are first appointed.

SEC. 3. The number of directors or trustees shall not be less than five, nor more than eighteen, a majority of whom shall be residents of the State of Idaho.

SEC. 4. When the articles of incorporation are filed as provided in section 1, the Secretary of State shall issue a certificate over the great seal of the State, stating that a copy of the articles of incorporation has been filed in his office containing the necessary statement of facts.

SEC. 5. The articles of incorporation may be altered or amended in any particular except as to the purposes for which the corporation is formed, and such alteration or amendment shall have effect from and after the time of filing a certificate of the same, executed by at least two-thirds of the directors or trustees, in the same manner as the original articles are filed. When such alteration or amendment changes the name, the Secretary of State shall issue a certificate stating the fact.

SEC. 6. Such corporation shall have power of perpetual succession, and in addition to the powers granted by law to other private corporations, shall have power to take by purchase, gift, grant, devise or bequest, and to hold the same for the use of such corporation, any real or personal property whatsoever, and to sell, convey, mortgage or otherwise use the same as may be considered most conducive to the interests of such institution; but no such corporation must own or hold more real

estate than may be necessary for the business and objects of the corporation, and such corporation shall have no power to divert any gift, grant, bequest or devise from the specific purpose designated by the donor.

SEC. 7. Such corporation shall by its by-laws provide for the election of directors or trustees, in such manner, at such times and places, for such periods and from such persons as may be considered most conducive to its interests: *Provided*, A majority of such directors or trustees shall be bona fide residents of the State of Idaho.

SEC. 8. The directors shall have the control of the affairs and property of the corporation, and may appoint and fix salaries of president, principal and professors, tutors, and other teachers, and such other officers and agents as they may deem necessary, and remove them at pleasure; and may prescribe the course of study and the discipline to be observed in the institution, or any department thereof, and may grant such literary honors and degrees as are usually granted by like institutions, and give suitable diplomas in testimony thereof.

SEC. 9. No religious test whatever shall be required of any applicant for admission into any institution of learning existing under the provisions of this Act.

SEC. 10. No corporation whose purpose is private gain shall ever be incorporated or continued in existence by virtue of the provisions of this Act.

SEC. 11. An emergency existing therefor, this Act shall take effect and be in force from and after the time of its passage.

Approved on the 7th day of February, 1899.

H. B. NO 78.

AN ACT

TO ATTACH THE COUNTY OF CANYON TO AND MAKE IT A PART OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, AND PROVIDING FOR THE TRANSFER OF CIVIL AND CRIMINAL CASES FROM ADA COUNTY TO CANYON COUNTY IN SUCH DISTRICT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the County of Canyon is hereby attached to, and made a part of the third judicial district of Idaho.

SEC. 2. All causes, matters, or proceedings, now pending in the district court of the third judicial district in and for the County of Ada, wherein the defendant resides within said County of Canyon, or the plaintiff resides in said county and the defendant is a non-resident of the State, and all suits for the foreclosure of any mortgage or lien upon real estate, which real estate is situated in said County of Canyon, and all proceedings in insolvency wherein the petitioner is a resident of the County of Canyon, and all actions in which the subject matter of the controversy is situated in the County of Canyon, shall be transferred to the district court of said district in and for the County of Canyon and there be proceeded with as if originally commenced in said county: *Provided*, That all cases which have proceeded to judgment in said County of Ada, or executions have been levied by the sheriff of said County of Ada, the same shall be enforced and carried out by the officers of said County of Ada, as fully and completely as though the territory embraced within the borders of said County of Canyon were a part of the County of Ada: and *Provided further*, That in cases triable in Canyon County

as provided in this section, and property has been attached in such cause, the sheriff of Ada County shall deliver such property to the sheriff of Canyon County, taking his receipt therefor.

SEC. 3. All prisoners now in custody in Ada County, charged with an offense committed within the present boundaries of Canyon County, shall be delivered to the sheriff of Canyon County by the sheriff of Ada County. And all persons now on bail charged with the commission of an offense within the present boundaries of Canyon County, shall, if indicted therefor, be tried in the said County of Canyon.

SEC. 4. It shall be the duty of the clerk of the district court of said third judicial district in and for the County of Ada to deliver to the clerk of the district court in and for the County of Canyon, all papers and files and a transcript of all records affecting causes triable or to be tried within the County of Canyon, as provided for in section two of this Act, for which said clerk of the said district court in and for the County of Ada, shall receive pay as in other cases for like service, which together with all costs due the officers of said Ada County for services rendered in said causes or proceedings shall be paid by the County of Canyon as other claims against the county, and warrants issued therefor shall be of amounts to equal payment in cash.

Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 7th day of February, 1899.

H. B. NO. 79.

AN ACT

AUTHORIZING THE CITY OF LEWISTON TO INCUR CERTAIN INDEBTEDNESS; PROVIDING THE PURPOSES FOR WHICH IT SHALL BE INCURRED AND FIXING THE LIMIT THEREOF; PROVIDING FOR THE ISSUANCE OF BONDS FOR THE PAYMENT OF SUCH, OR ANY EXISTING INDEBTEDNESS; AMENDING AN ACT ENTITLED "AN ACT TO AMEND THE CHARTER OF LEWISTON, APPROVED FEB. 9, 1881."

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 20 of "An act entitled an act to amend the charter of the city of Lewiston, approved Feb. 9th, 1881, be and is hereby amended to read as follows:

Section 20. The city may borrow money for strictly municipal purposes and may incur indebtedness in other ways for such purposes but it shall not for any purpose become indebted in any manner to an amount exceeding six per cent of the value of all taxable property in the city to be ascertained by the last assessment for city purposes: *Provided*, That with the assent of three-fifths of the voters of the city voting at an election which may be held for that purpose, the city may become indebted in a larger amount not exceeding six per centum additional for the purpose of supplying the city with water, lights and sewers or works, when the same are to be owned by the city and to evidence and secure any indebtedness existing or to be incurred, the city may by ordinance authorize and provide for the issuance of bonds of the city, therefor with interest coupons attached or otherwise, and pledge the faith, credit and property of the city and its inhabitants for the payment of such bonds, and direct the time and manner of the issuance of the same and the time and manner of the payment of the principal and interest therefor, not exceeding twenty years from the date of

such bonds, and may from time to time, authorize the refunding of any indebtedness of the city.

SEC. 2. Whereas an emergency existing therefor, this Act shall be in force from and after its passage and approval by the Governor.

Approved on the 9th day of February, 1899.

H. B. NO. 80.

AN ACT

REGULATING THE FEES AND MILEAGE OF WITNESSES IN CRIMINAL PROCEEDINGS; AMENDING SECTION 8151 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 8151 of the Revised Statutes of Idaho, be and the same is amended to read as follows:

When a person shall attend before a grand jury, or the district court, as a witness, upon a subpoena, or pursuant to an undertaking, such person shall receive the sum of twenty-five cents a mile, one way for each mile actually traveled, but no person can receive more than one mileage under this section, at one term of the district court; such person shall also receive two dollars per day for each day's actual attendance as such witness. Such mileage and per diem must be paid out of the county treasury of the county where such district court is held, upon the certificate of the clerk of said court: *Provided, however,* That when a defendant in a criminal proceeding requires the attendance of more than five witnesses in his behalf before such witnesses shall be subpoenaed at the county expense or their fees and mileage be a charge against the county such defendant must make affidavit setting forth that they are witnesses whose evidence is material to his defense that he cannot safely go to trial without them. In such case the court shall order a subpoena to issue for such of said witnesses as the court may deem material for the defendant and the costs incurred by the process and the fees and mileage of such witnesses shall be paid in the same manner that costs and fees of other witnesses are paid.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 81.

AN ACT

PROHIBITING THE SALE AND PURCHASE OF OPIUM FOR SMOKING; THE KEEPING OF RESORTS FOR SMOKING OPIUM AND THE FREQUENTING THEREOF. AMENDING SECTIONS 6830, 6831, AND 6832 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 6830 of the Revised Statutes of Idaho, be amended to read as follows:

Section 6830. Every person who opens, maintains or keeps any house or place as a resort for the purpose of smoking opium, or any preparation containing opium, or who barter, sells, vends or gives away opium, or any preparation containing opium for the purpose of being smoked, or that is smoked upon the premises, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not exceeding three hundred dollars, or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment; and in case any

such fine and the costs of prosecution are not paid, any person or persons convicted under this section and sentenced to pay a fine, may be held by the sheriff and compelled to work at hard labor in a chain-gang or otherwise, in charge of a keeper, upon the public highways, or elsewhere, or for any person who may contract with the sheriff for such labor, until such fine and costs are fully paid, at the rate of one dollar a day for each day of ten hours of hard labor, and any money so received shall be applied to the payment of the fine and costs.

And upon any conviction under this section, the court before which such conviction is had, may direct the sheriff, or arresting officer, to destroy any opium, or preparation containing opium, or all pipes, utensils, implements and other things used, had or kept for use, or designed or adopted for use in smoking opium, or any such preparation that may have been used in evidence on the trial of any person convicted under this Act, or that may be found upon his person or premises.

SEC. 2. That section 6831 of the Revised Statutes of Idaho be amended to read as follows:

Section 6831. Every person who bargains for, buys, takes or accepts any opium or preparation containing opium in any house or place to be smoked upon the premises, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding six months or by both such fine and imprisonment.

SEC. 3. That section 6832 of the Revised Statutes of Idaho be amended to read as follows:

Section 6832. Every person who is found in any house, or place kept or used as a resort or place for the purpose of smoking opium, or any preparation containing opium, without any lawful business, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

SEC. 4. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 5. Whereas an emergency exists this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 82.

AN ACT

TO PROVIDE FOR THE INTERNAL IMPROVEMENT OF THE STATE BY THE CONSTRUCTION OF A SYSTEM OF WAGON ROADS IN THE COUNTIES OF BOISE, CUSTER, LEMHI, IDAHO, SHOSHONE, KOOTENAI, LATAH, AND NEZ PERCE, AND PROVIDING FUNDS FOR THE CONSTRUCTION OF SAID SYSTEM OF WAGON ROADS BY THE ISSUANCE OF A SERIES OF STATE ROAD BONDS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. There shall be constructed in the counties of Boise, Custer, Lemhi, Idaho, Shoshone, Kootenai, Latah and Nez Perce, in the State of Idaho, a system of State wagon roads, commencing at Banner in said Boise County and running thence by way of Bear Valley in said Idaho County, and thence by the way of the mouth of Yankee Fork and the Salmon river to the head of the North Fork of Salmon river at the line between the State of Idaho and the State of Montana. Said road shall be laid over such

ground as the commission hereinafter provided for shall deem the most practicable.

SEC. 2. There shall be further constructed as a portion of said system of roads, a road beginning at the head of the falls of the Little Salmon river at the county line between Washington and Idaho Counties, thence down Little Salmon river to the main Salmon river, thence down the main Salmon river to the southern terminus of the present wagon road at John Dumacq's place about four miles above the mouth of White Bird creek, thence by the way of the present wagon road in a northerly direction to Mount Idaho in Idaho County, and extending thence north through Nez Perce and Latah Counties by the way of the mouth of the St. Mary's river in said Kootenai County to Wallace, in said Shoshone County, with a branch also extending from Clear Water to Elk City in said Idaho County over the most direct and practicable route, together with such bridges over the streams crossed by all of said roads as may be necessary for safe and convenient travel thereon.

SEC. 3. At the April meeting after the passage of this Act the boards of county commissioners of the counties of Boise, Custer, Lemhi, Idaho, Shoshone, Kootenai, Latah and Nez Perce shall each appoint one resident citizen of its respective county to be a commissioner for the construction of said system of wagon roads and the persons so appointed by the respective boards shall constitute a commission for the supervision and construction of said system of wagon roads. Should a vacancy at any time occur in said commission by death, resignation, failure to act or otherwise said vacancy shall be filled by the appointment of some other competent resident person by the board of county commissioners of the county in which the vacancy occurs.

SEC. 4. The first meeting of said commission shall be held at Boise City in Ada County, on the the first day of June 1893. Subsequent meetings shall be held at such places and times as a majority of the commission may determine. Each member of the commission, before entering upon the duties of his office, shall take and subscribe an oath to faithfully discharge the duties of his trust according to law, which oaths shall be filed in the office of the Secretary of State.

SEC. 5. At the first meeting of said commissioners they shall select one of their number as president of the commission, and shall choose one of their number, or some other competent person, secretary of the commission, to act during their pleasure, and may fix his compensation, which shall not exceed two hundred and fifty dollars per annum for all services rendered as secretary. The Treasurer of the State of Idaho shall be treasurer of the commission, and shall be liable upon his official bond for the faithful performance of his duties as such.

SEC. 6. No commissioner shall be interested in any contract to be let or made under the provisions of this Act, or in any supplies furnished to or for said commission, or be a surety for the performance of any such contract, or the agent or partner of any contractor with said commission, and no action shall be maintained or recovery had against said commission or the State upon a contract or obligation in which any commissioner is so interested, but the same shall be void.

SEC. 7. Said commission shall keep an accurate account of all money disbursed by them under the provisions of this Act, and shall make a report and statement on the first day of June and January of each year, to

the Governor, of all their disbursements, contracts and transactions; and shall, upon the completion of said system of wagon roads and its acceptance by them as hereinbefore provided, or whenever such report shall be demanded by the Governor, make a full and complete report to the Governor of all their transactions of all kinds in and about said roads which report the Governor shall transmit to the next succeeding session of the Legislature. The commission may make such rules and regulations for the transaction of its business and for the government of its appointees and employees as it may deem expedient and necessary.

SEC. 8. Said commission or a majority of the members thereof, shall, at their first meeting, or as soon as practicable thereafter, appoint one or more persons to survey and definitely locate the roads to be constructed under this Act between such places and along such general routes as said commission may order, subject to the provisions of this Act. Each person so appointed shall be a competent civil engineer of recognized standing and practical skill, and he shall have power to employ under the direction of said commission, the necessary assistants to carry on the work of location and construction of said roads. All moneys paid out by the said commission, to any contractor or contractors, shall be paid out only after the amounts so due shall have been approved by said engineer who shall certify that the amounts called for are actually due by reason of work done under the terms of a contract duly executed, a copy of which contract shall be furnished to said engineer. All amounts due under any contract shall be computed by said engineer. Said engineer shall recommend a proper form of contract to be entered into between said commission, as representing the State of Idaho, and the contractor. The compensation of said engineers shall be fixed by the board not to exceed one hundred and fifty dollars per month each and expenses, and the total sum expended for engineering work, including locating and superintending the construction of said system of roads shall not exceed twelve thousand dollars in the aggregate. All work done by said engineers shall be accurately performed and clearly marked out in the field. *Provided;* That no grade on said roads shall exceed ten per cent.

SEC. 9. As soon as practicable after the lines of said roads have been determined the commission shall meet at such place as may be determined upon and shall proceed to divide the lines of said proposed roads into sections, naming as the beginning and end of each section well known and easily determined points; and shall determine and settle upon the width of proposed grades, the points on said roads where culverts, corduroys, drains, and turn-outs shall be necessary, the distance upon each side of the roads that trees shall be cut down, the bridges that shall be built and their dimensions, method of construction and material out of which they shall be built, and all other requirements that may be proper and necessary.

SEC. 10. That upon dividing said roads into sections, as provided for in section 9, the said commission shall let as soon as practicable in the year 1893, to the lowest responsible bidder or bidders, after public advertisement in such newspapers, five in number, published in the State of Idaho, as may be selected by the commission as most likely to give notice to contractors, for 40 days, contracts for such of the several and different sections of said road as the commission may decide upon letting for said year: *Provided;* That if any contracts are let, they shall

be equally distributed along the lines of said roads and not confined to any particular portion, or section of said roads, nor to any particular county through which the said roads shall be laid. Each contract shall include one section of said roads, and shall be in writing and shall call for such width of grades and other requirements as may have been determined upon by the commission and shall include all bridges, culverts, corduroys, drains, turn-outs and other requirements as may have been settled upon by the commission. The commission shall require proper and adequate bonds or cash security from all contractors and may reject any or all bids if in their judgment the same are for an excessive amount. The contract shall be for sections of said roads commencing at Banner in Boise County, and extending toward Bear Valley in Idaho County and on the line of said road; and from Salmon City in Lemhi County and extending toward Yankee Fork in Custer County and commencing at Yankee Fork and extending toward Bear Valley in Idaho County and on the line of said road; and from Salmon City in Lemhi County and extending toward the head of the north fork of the Salmon river at the line between Idaho and Montana and on the line of said road; and commencing at John Dumacq's ranch and extending toward the falls of the Little Salmon river and on the line of said road; and commencing at Wallace in Shoshone County and extending toward the mouth of St. Mary's river in Kootenai County and on the line of said road; and commencing at the mouth of St. Mary's river, in Kootenai County and extending toward Mount Idaho in Idaho County, and on the line of said road; and from Clear Water in said Idaho County and extending toward Elk City, in said county, and on the line of said road; *Provided, however,* That the contracts let under this section shall not exceed the sum of one hundred and fifteen thousand dollars and *Provided further* That the total amount expended under the provisions of this Act, shall not exceed, for the various portions of the roads, the following sums. On that portion between Banner and Bear Valley the sum of eleven thousand dollars. On that portion between Bear Valley and the head of the north fork of the Salmon river by way of Yankee Fork and Salmon City the sum of forty thousand dollars. On that portion between the Clear Water and Elk City the sum of eight thousand dollars. On that portion from the head of the falls of the Little Salmon river to Mount Idaho, the sum of twenty-seven thousand dollars. On that portion from Mount Idaho to the mouth of the St. Mary's river the sum of twelve thousand dollars. On that portion from the mouth of the St. Mary's river to Wallace seventeen thousand dollars and *Provided further,* That if the cost of the construction of any portion of said roads, as mentioned in this section shall not reach the above mentioned sums allowed in this section, for each portion of said roads, then such surplus from the amount allowed for such portion may be used on any other portion of said roads at the discretion of the said board of commissioners.

SEC. 11. Should any or all of the bids presented be rejected by the commissioners, or should any part of said roads not be bid upon, the commission may re-advertise for bids upon such sections of said proposed roads as have not been bid upon or upon which the bids have been rejected, and let the same at a subsequent meeting at such time and place as may be determined by the commission.

SEC. 12. Each commissioner provided for in this Act shall receive

his actual expenses while necessarily engaged in the performance of his duties as prescribed in this Act. Each of the said commissioners shall make an itemized bill of his expenses and verify the same under oath, *Provided*, That the total expenses of all commissioners created in this Act shall not exceed the sum of six thousand dollars in the aggregate, for all expenses incurred by said commissioners in carrying out the provisions of this Act.

SEC. 13. All moneys authorized to be expended under the provisions of this Act shall be paid out of the fund hereinafter provided for by the State Treasurer, *Provided*, That before the State Auditor shall draw his warrant, all claims against said commission for labor performed, or materials furnished, shall be audited and allowed by the said commission, and shall be certified up to the State Auditor by the president and secretary of said commission, *Provided further*, That before the president and secretary of said commission shall certify any claim to the Auditor, said claim or claims must be authorized by a vote of a majority of said commission at a regular meeting of said commission. All bills presented to the commission shall be verified by the oath of the person presenting the same.

SEC. 14. On letting contracts under the provisions of this Act, the time for the completion for the work contracted for, shall in no case be extended for more than one year from the time of letting such contract.

SEC. 15. No moneys shall be paid out, or claims certified to by the president or secretary of the said commission, or warrants drawn by the Auditor, upon any contract, until the said contract has been finished and accepted by the commission. *Provided, however*, That in case the contract price of any section exceeds the sum of two thousand dollars, the commission may make partial payments from time to time, not exceeding two-thirds of the value of the labor actually performed.

SEC. 16. That for the purpose of furnishing the money to be used in building said road and paying the other expenses incurred by virtue of the provisions of this Act a loan of one hundred and thirty-five thousand dollars is hereby authorized to be negotiated on the faith and credit of the State, and the Treasurer of the State is hereby authorized, empowered and directed to issue bonds of the State in the sum of one thousand dollars each, payable in twenty years from the date of their issuance, to bear interest at the rate of five per centum per annum, payable semi-annually on the first day of January and July each year, at a bank in the city, county and State of New York, to be selected by the State Treasurer but said bonds shall be redeemable at the pleasure of the State at any time after the expiration of ten years from the date of their issuance, and shall be numbered from one to one hundred and thirty-five consecutively. The Treasurer of the State is hereby directed, authorized and empowered, to cause to be printed or lithographed suitable bonds in proper form with coupons attached: all such bonds shall be signed by the Secretary of the State with his own proper name, affixing his official character, and shall be authenticated with the great seal of the State and shall be signed or endorsed by the Governor of the State with his proper name and affixing his official character, and shall then be delivered by the Secretary of the State to the Auditor of the State, who shall make and keep a register of such bonds, showing the number and amount of each bond, and then deliver the same to the Treasurer of the State, and

charge him on the official books of the Auditor's office with the full amount of such bonds. *Provided*, That such bonds shall be issued and sold from time to time as the work progresses and money is needed in payment of the several contracts herein provided for and other expenses incident to the construction of said road.

SEC. 17. At the time of issuing said bonds under the provisions of this Act, the State Treasurer shall sign them with his own proper name, affixing his official character, and shall in like manner sign the coupons thereunto attached, and such signing shall bind the State. The coupons for the payment of interest shall be attached to said bonds in such manner that they may be taken off without injuring or mutilating the bonds, and shall be severally numbered from one to forty, inclusive, each bearing the corresponding number of the bond to which they are attached. The Treasurer shall keep a register of all the bonds issued by him, showing the date of issuance, and shall deliver said bonds with the coupons attached as aforesaid, to the purchaser or purchasers upon the receipt of the purchase money therefor; and the money received from the sale of the bonds herein provided for shall be used in the construction of said wagon road and the other expenses provided for in this Act, and shall be paid out as herein provided; *Provided, however*, That none of such bonds shall be sold for less than their face or par value. The expenses of printing or lithographing and procuring suitable bonds with coupons attached, shall be paid out of the fund arising from the sale of the same, as an expense incident to the construction of said road.

SEC. 18. For the purpose of creating a fund to pay the interest coupons, and the principal of said bonds, in addition to the taxes now imposed by law, an additional ad valorem tax of three cents upon each one hundred dollars of the assessed value of all property in this State not exempt from taxation, is hereby levied, and shall be collected as are other taxes for State purposes. All moneys received by the State Treasurer as the proceeds of the tax hereby levied shall be set apart by him, and shall constitute a separate and distinct fund to be known as the road fund. And the State Treasurer shall pay the interest on said bonds when due out of said road fund, taking the coupons as his vouchers therefor. And after the expiration of ten years from the issuance of any of said bonds, whenever there shall be five thousand dollars or more in the said road fund, over and above the amount required for the payment of interest coupons due, or to become due within the ensuing six months, the State Treasurer shall use such surplus money in the redemption of said bonds in the order of their number and date of issue, of which the Treasurer shall give notice by publication once a week for four successive weeks in some newspaper published at the State Capital, and from the date of the last publication of such notice, the bonds proposed to be redeemed shall cease to draw interest; and if any such bonds shall not be presented within sixty days from the date of the last publication of such notice, the Treasurer shall apply the money for the redemption of bonds next in number of the number and date of their issue.

SEC. 19. If at any time there shall not be sufficient moneys in said road fund to pay the interest coupons or the principal of such bonds when due the State Treasurer shall pay the same out of the general fund of the State, and shall replace the amount so paid out for the road fund whenever moneys intended for said fund shall be received.

SEC. 20. If at any time before the end of eight years after the issuance of said bonds there shall be in said road fund the sum of twenty-five hundred dollars or more, over and above the interest coupons due or to become due within six months next ensuing, the Treasurer shall transfer from the said road fund to the general fund of the State said amount, and make the proper entries of said transfer in his books, and thereafter said amount shall constitute a part of said general fund, *Provided, however,* That should at any time afterward there not be sufficient money in said road fund to pay the interest coupons on the bonds herein authorized to be issued, said Treasurer shall replace in the road fund so much of the money transferred to the general fund as may be necessary to pay said coupons. *Provided, however,* That at the expiration of ten years from the issuing of said bonds, the said Treasurer shall replace in the said road fund of all such moneys transferred to the general fund.

SEC. 21. For the payment of the bonds herein authorized and the interest thereon; according to the strict terms thereof, the faith of the State of Idaho is solemnly pledged; and for the payment of the interest as the same shall accrue on the bonds hereby authorized in lawful money of the United States, the Treasurer shall reserve any and sufficient of the funds in his hands at the least possible cost, in preference to all other claims whatsoever, except the interest on other State bonds heretofore issued under laws passed by the Legislature Assembly of Idaho.

SEC. 22. The Treasurer shall commence negotiations for the issuance and sale of the bonds herein provided for, immediately upon the passage of this Act.

SEC. 23. Upon the completion of said roads and the acceptance by the Governor, the commission herein created shall no longer exist.

SEC. 24. The roads herein provided for may at all times be used in accordance with the general laws of this State by the United States, or by any of the residents or citizens thereof, free of charge or toll of any kind.

SEC. 25. After the completion and acceptance of said road the boards of county commissioners of the respective counties wherein the same is situated shall cause the portions thereof within their respective counties to be maintained and repaired as are other public roads within their respective counties. *Provided, however,* That nothing contained herein shall be construed as waiving any right the State may have in or to said roads, or any right to legislate in the future as to said roads.

SEC. 26. All warrants drawn upon the road fund hereby created shall draw interest at the same rate as warrants drawn upon the general fund of the State treasury.

SEC. 27. After the completion and acceptance of the roads hereinbefore provided for, and the payment of all amounts due on account of constructing the same, and of all warrants drawn upon said road fund, the said fund shall cease to exist and all moneys remaining in said fund shall by the State Treasurer be transferred to the general fund of the State and thereafter constitute a part of said general fund.

SEC. 28. When the commission herein created shall notify the Governor that said roads are completed, then the Governor shall appoint an examining board consisting of three men of experience and integrity who shall be men who have not previously been connected with the roads, at least one of whom shall be a civil engineer of recognized ability and

practical skill, which board shall be furnished with a copy of all contracts let on said roads and the necessary field notes of the same and shall proceed to make a careful personal examination of said roads. The examining board shall report all necessary facts to the Governor, and shall state under oath whether said roads have been constructed in exact accordance with the terms of said contracts, and the provisions of this Act, and shall recommend their acceptance or rejection, giving the reasons in detail for the conclusions arrived at and no contractor shall be released on his bond until the road be accepted by the Governor upon the recommendation of the said examining board, which examination shall be made within a reasonable time after notice by the said commission that the roads are completed. The members of the said examining board shall be paid such compensation as the Governor may direct, *Provided however* That the total amount of such expense shall not exceed the sum of fifteen hundred dollars.

SEC. 29. Whereas an emergency exists therefor this Act shall be in force and take effect from and after its passage.

Approved on the 10th day of February, 1899.

H. B. NO. 83.

AN ACT

TO REPEAL AN ACT ENTITLED, "AN ACT CREATING THE OFFICE OF BOILER INSPECTOR FOR THE STATE OF IDAHO AND DEFINING HIS DUTIES, POWERS AND LIABILITIES, AND FIXING HIS SALARY AND MILEAGE, AND PROVIDING FOR THE EXAMINATION AND LICENSING OF ENGINEERS, AND PRESCRIBING THE DUTIES AND LIABILITIES THEREOF," APPROVED FEBRUARY 23RD, 1893.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That an act entitled, "An act creating the office of Boiler Inspector for the State of Idaho and defining his duties, powers and liabilities, and fixing his salary and mileage, and providing for the examination and licensing of engineers, and prescribing the duties and liabilities thereof," approved February 23rd, 1893, is hereby repealed.

SEC. 2. An emergency existing, therefore this Act shall be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 84.

AN ACT

REGULATING THE FEES AND MILEAGE OF JURORS IN INFERIOR COURTS; AMENDING SECTION 6138 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 6138 of the Revised Statutes of Idaho be amended to read as follows:

Section 6138. Jurors in civil and criminal cases in the probate and justices courts are entitled to receive two dollars per day for each day actually engaged in the trial of a case. And twenty-five cents per mile, one way. Such mileage and per diem in all civil cases must be entered and taxed up as costs against the losing party, and in all criminal cases, must be paid out of the county treasury of the county where such probate or justice court is held, upon the certificate of the probate judge or justice before whom such case was tried, to be audited and paid as other claims against the county.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 85.

AN ACT

PROVIDING FOR THE PAYMENT OF CERTAIN EXPENSES OF JUDGES OF THE DISTRICT COURTS IN HOLDING TERMS OF THE SAID COURTS IN COUNTIES OTHER THAN THE ONE IN WHICH THEY RESIDE; AND OF JUSTICES OF THE SUPREME COURT IN HOLDING THE LEWISTON TERM OF SAID COURT; AMENDING SECTION 6147 OF THE REVISED STATUTES OF IDAHO, AND ADDING SECTION 6151 THERETO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 6147 of the Revised Statutes of Idaho, be and is hereby amended to read as follows:

Section 6147. There must be paid to each of the judges of the district courts, out of the State treasury, for each term of a district court held by him for the trial and disposition of causes and the transaction of business under the laws of the State, in other counties than that in which he resides, his actual expenses, not exceeding one hundred dollars for traveling and holding each term.

SEC. 2. That the Revised Statutes of the State of Idaho be amended by adding a section to chapter five, title four thereof, which shall read as follows:

Section 6151. There must be paid to each of the Justices of the Supreme Court, out of the State treasury, for each term of the Supreme Court held at the City of Lewiston, his actual expenses not exceeding two hundred dollars.

SEC. 3. An emergency existing therefor this Act shall be in force from and after its approval.

Approved on the 9th day of February, 1899.

H. B. NO. 86.

AN ACT

CREATING SPECIAL LIENS, DEPENDENT UPON POSSESSION; AND FOR FORECLOSING THE SAME. AMENDING SECTION 3445 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3445 of the Revised Statutes of Idaho be amended so as to read as follows:

Section 3445. Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor, or skill, employed for the protection, improvement, safe keeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation if any which is due him from the owner, for such service, and livery or boarding or feed stable proprietors and persons pasturing live stock of any kind have a lien dependent on possession for their compensation in caring for, boarding, feeding or pasturing such live stock. If the liens as herein provided are not paid within sixty days after the work is done, service rendered feed or pasturing supplied the person in whose favor such special lien is created may proceed to sell the property at public auction after giving ten days' public notice of the sale by advertising in some newspaper published in the county, where such property is situated, or if there be no newspaper published in the county then by posting notices of the sale in three of the most public places in the county, for ten days pre-

vious to such sale. The proceeds of the sale must be applied to the discharge of the lien and costs; the remainder if any must be paid over to the owner.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 87.

AN ACT

DEFINING OBSTRUCTIONS TO RAILROADS, RAILROAD TRAINS, RAILROAD TRACKS, STREET CARS, AND STREET CAR TRACKS, AND PRESCRIBING THE PUNISHMENT FOR OBSTRUCTING THE SAME; AND PROVIDING FOR THE PROTECTION OF PASSENGERS AND EMPLOYEES RIDING UPON ANY TRAIN OR CAR IN THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any person or persons who shall willfully or maliciously place any obstruction on any railroad track or roadbed, or street car track in this State, or who shall loosen, tear up, remove or misplace any rail, switch, frog, guard rail, cattle guard, or any part of such railroad track or roadbed or street car track or who shall tamper with or molest any such road, roadbed or track, or who shall destroy or damage any locomotive, motor or car on said track, or who shall otherwise interfere with the maintenance or operation of such road so as to endanger the safety of any train, car, motor or engine, or so as to endanger or injure any passenger or person riding thereon, or being about the same, shall, upon conviction thereof, be punished by imprisonment in the penitentiary for any term not exceeding twenty years nor less than five years.

SEC. 2. Any person or persons who shall within this State willfully or maliciously place any obstruction upon any railroad track or roadbed or street car track, or shall misplace, remove, obstruct, detach, damage or destroy any rail, switch, frog, guard rail, cattle guard, or any other part of such railroad track or roadbed or street car track, or who shall otherwise interfere with the maintenance and operation of such road, thereby causing the death of any person, whether passenger or employee of such railroad, or street railway, or otherwise, shall, upon conviction thereof, be deemed guilty of a felony and be punished by imprisonment in the penitentiary for a term not less than five years and which may extend to the natural life of such person so found guilty, or may be tried and punished for murder but this section shall not in any way lessen the liability of the railroad company where a wreck may hereafter occur in the State of Idaho.

SEC. 3. Whereas an emergency is declared to exist, this Act shall take effect and be in force from and after its approval by the Governor.

Approved on the 9th day of February, 1899.

H. B. NO. 88.

AN ACT

TO PROTECT COMMON CARRIERS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be unlawful for any person by himself or another, without the written order or consent of such common carrier to make, simulate, sell or dispose of any key belonging to or which might be used to open or unlock any switch-lock, car-lock, or locks, used upon

or belonging to any switch or car of any kind owned, controlled or operated by any common carrier in this State.

SEC. 2. Any persons violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars or by imprisonment in the county jail not less than thirty days nor more than six months.

SEC. 3. Whereas an emergency is declared to exist this Act shall take effect and be in force from and after its approval by the Governor.

Approved on the 9th day of February, 1899.

H. B. NO. 89.

AN ACT

PROVIDING THAT THE STATE AND COUNTY PRINTING AND BINDING AND STATIONERY WORK OF THE SEVERAL COUNTIES THROUGHOUT THE STATE, SHALL BE EXECUTED WITHIN THE STATE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. All printing, binding and stationery work executed for or on behalf of the State, and for which the State contracts or becomes in any way responsible for, shall be executed within the State of Idaho, except as provided in section 3.

SEC. 2. All county printing, binding and stationery work, executed for or on behalf of the several counties throughout the State for which the said counties contract or become in any way responsible, shall be executed within the county for which said work is done, when there are practicable facilities within the said county for executing the same, but when it shall become necessary, from want of proper facilities, to execute the work without the said county, then the same shall be executed at some place within the State of Idaho, except as provided in section 3.

SEC. 3. Whenever it shall be established that any charge for printing, binding, or stationery work is in excess of the charge usually made to private individuals for the same kind and quality of work, then the State or county officer or officers having such work in charge shall have power to have such work done outside of said county or State, but nothing in this Act shall be construed to oblige any of said officers to accept any unsatisfactory work.

SEC. 4. All contracts entered into in violation of the provisions of this Act shall be void.

SEC. 5. All acts or parts of acts in conflict with the provisions of this Act are hereby repealed.

SEC. 6. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 90.

AN ACT

TO REPEAL AN ACT ENTITLED, "AN ACT TO PRESCRIBE THE MODE OF PAYMENT OF ALL OBLIGATIONS OF DEBT TO BE PAID IN MONEY."

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That an act entitled: "An act to prescribe the mode of payment of all obligations of debt to be paid in money," approved March 1st, 1893, is hereby repealed.

SEC. 2. An emergency existing, therefore this Act shall be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO 91.

AN ACT

PROVIDING FOR THE APPOINTMENT OF SHEEP INSPECTOR; PRESCRIBING HIS DUTIES AND FIXING HIS COMPENSATION.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The office of Sheep Inspector for the State of Idaho is hereby created. It shall be the duty of the Governor, within twenty days from and after the passage of this Act, to appoint some suitable, capable and discreet person and practical sheep grower to fill said office.

SEC. 2. The State Sheep Inspector shall receive as full compensation for his services a salary of one hundred (\$100.00) dollars per annum, to be paid as the salary and fees of other State officers are paid. He shall have power to examine and quarantine, if necessary, any sheep or bands of sheep at any time or place within the State of Idaho. He shall hold his office for a term of two years, and until his successor is appointed and qualified, unless sooner removed by the Governor. Before entering upon the discharge of his duties as such officer, he shall file an official bond in the sum of five hundred (\$500.00) dollars conditioned for the faithful performance of the duties of his office in form and manner as other official bonds of State officers.

SEC. 3. Such State Sheep Inspector shall have power and it shall be his duty to appoint one or more deputy sheep inspectors for each county upon petition of a majority of the sheep growers, or upon the sworn statement of an individual sheep owner of such county, certifying that the provisions of this law are not being complied with. Such deputies shall be practical sheep men, who, before entering upon the duties of their office, shall take an oath as required by county officers, and shall give a bond to the State of Idaho in the penal sum of two thousand (\$2000.00) dollars, conditioned for the faithful performance of the duties of deputy sheep inspector, the sureties to be approved by the State Sheep Inspector and to be placed on file in his office. Such deputies shall be subject to removal by the State Sheep Inspector. Such State Sheep Inspector shall have power to divide any such county into districts if petitioned to do so by the majority of the resident sheep owners of said district.

SEC. 4. It shall be the duty of the State Sheep Inspector to have general supervision over his deputies, appointed under the provisions of this Act, and to aid, counsel and advise with such deputies, and generally to enforce the provisions of this Act.

SEC. 5. The deputies appointed under the provisions of this Act shall have power and it shall be his or their duty to administer oaths, and it shall be the duty of at least one deputy inspector, in each county or district thereof where the same may be appointed, the same to be designated by the State Sheep Inspector, to personally examine all sheep and bands of sheep in his county or district thereof, every spring between the first day of March and the first day of June of each year; and to the owners or persons in charge of herds found to be clean, he shall issue a certificate stating such fact which certificate shall permit such herds to pass

into and through any and all counties in this State, so long as they shall remain clean and free from disease; and such deputy also is required to examine any band or bands of sheep at any time that he may be called upon to do so at the request of one or more sheep growers in writing, stating that such sheep are affected or infected with some infectious or contagious disease, and that there is imminent and immediate danger of the spreading of such disease; *Provided*, That if upon examination such sheep are found to be clean, the person or persons making such complaint shall pay the expense and cost of such examination which may be recovered in a civil action therefor; but, in case such inspector, upon making such examination, finds such sheep diseased, he shall forthwith issue his order, quarantining said sheep.

SEC. 6. Any person, company, association or corporation, within this State, desiring to move his or their sheep which are not sound or are infected or affected by scab or any infectious or contagious disease, shall first obtain from a deputy inspector a traveling permit. Such permit shall only be granted for the purpose of moving said sheep a distance of not to exceed ten miles from the shearing corral, to some place where they shall be dipped, and by such a route as the deputy sheep inspector may designate; and any person, persons, company, corporation or association, injured or damaged by the reason of the moving of said sheep, shall be entitled to recover from the person, persons, company, corporation or association, moving the same, by a civil action, the amount of damage, direct and consequential sustained thereby. And any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred (\$100.00) dollars, and not more than two hundred and fifty (\$250.00) dollars, or by imprisonment in the county jail not less than two months, nor more than six months, or by both such fine and imprisonment.

SEC. 7. The deputy sheep inspector appointed in the several counties as provided in this Act shall receive four dollars per day for every day, or part of a day, spent in the performance of his duty, to be paid by the owner or owners of the sheep examined, and to be enforced as a lien against the sheep so examined as provided in section eight of this Act.

SEC. 8. Any deputy sheep inspector granting a permit, allowing sheep to travel, without at the time having first examined the sheep, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars.

SEC. 9. Any person or persons owning or having under their control sheep or bands of sheep which have become affected with scab or other infectious or contagious disease, for a period of fifteen days without reporting such fact to the deputy sheep inspector of such county or district thereof where such sheep are situate, in writing, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of not less than twenty-five (\$25.00) dollars, nor more than two hundred (\$200.00) dollars, or by imprisonment in the county jail not less than two months, nor more than six months, or by both such fine and imprisonment. And any person, persons, company, corporation or association who shall drive or cause to be driven any sheep into any sheep corral the property of another, situated within the State of Idaho, without having obtained the consent, in writing, of the owner or person having the control or custody

of such sheep corral, shall be guilty of a misdemeanor and shall be punished as above provided in this section. Any person, persons, company or corporation violating any of the provisions of this section, in addition to the penalty herein fixed, shall be liable in a civil action to the person, persons, company or corporation injured thereby, for all damages sustained in consequence of such violation.

SEC. 10. In any action or proceedings, civil or criminal, arising under this Act, any and all persons having any interest in sheep or controlling the same, and concerning which such action or proceeding is had, shall be deemed the owners of said sheep, and shall be liable severally and jointly for such violation of this Act. Any herder or shepherd or other person in charge of sheep shall be sworn to give every deputy sheep inspector any and all information as to the condition of sheep in his charge, to the best of his knowledge, on being requested so to do by said deputy, and refusing to give the same under oath, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars, or by imprisonment in the county jail for not less than two months, nor more than six months, or by both such fine and imprisonment. In criminal actions against corporations under this Act, no arrest shall be necessary, but a summons containing notice of the time and place of trial, together with a copy of the complaint filed before a justice of the peace, or in the court in which the action is commenced, shall be served in the same manner and for the same length of time as in civil actions. All bucks shipped into the State of Idaho, from other states or territories shall be at the place of unloading for grazing, breeding or other purposes dipped at the nearest dipping place as provided for in section 6 of this Act. All moneys collected by fines and penalties must be appropriated or placed in the school fund of said county where such fine is imposed and collected.

SEC. 11. It shall be the duty of each deputy sheep inspector appointed under this Act to keep a book in which he shall record as complete a description as practicable of the marks and brands with which each person in his county marks or brands his sheep, and the owners of sheep shall report in writing to such deputy sheep inspector their marks and brands, for the purpose of aiding such deputy sheep inspector to make up and keep such records; said deputy sheep inspectors are also required to keep a book, in which they shall record the names of all persons prosecuted for violations of this Act, together with a description of the particular offense charged against him, the name of the court in which said prosecution was had, and the result of such prosecution, giving the amount of fines where fines are assessed. And on the first day of January of each year, each deputy sheep inspector appointed under the provisions of this Act shall make a report to the State Sheep Inspector, which report shall contain a true and correct copy of his record as contained in the books required by him to be kept under the provisions of this Act, which report shall be placed on file in the office of the State Sheep Inspector.

SEC. 12. If any person or persons, company or corporation, in driving or herding any sheep, should get into their herd any stray sheep, they shall immediately notify the owner thereof; and if the owner is unknown, he or they shall forthwith notify the deputy sheep inspector of

such county, giving the number of such sheep and the brands of each; and, any person, persons, company or corporation, violating the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars.

SEC. 13. All deputy sheep inspectors are hereby given the power, and it is hereby made their duty, to arrest and bring before a justice of the peace, or other court having jurisdiction of the same, any and all persons found violating the provisions of this Act, where a complaint shall be filed by such deputy sheep inspector, either upon his own knowledge or upon information of such violation, whereupon a hearing shall be had as in other like criminal cases; and such deputy sheep inspectors are hereby vested with the same authority to arrest and to require aid in the execution of their said office as sheriffs and their deputies of the several counties of this State: *Provided*, That the provisions of this Act requiring the deputy sheep inspectors of the county to prosecute for a violation of the provisions of this Act, shall not be construed so as to prevent such prosecutions from being commenced and prosecuted by other persons as criminal actions are commenced and prosecuted in other cases.

The deputy sheep inspectors, as full compensation for their services in prosecutions, shall be allowed the following fees: For each arrest made under the provisions of this Act the same fees and mileage allowed to sheriffs for like services, to be paid as other claims against the county.

SEC. 14. An Act entitled, "An Act for the appointment of sheep inspectors, and to suppress and prevent dissemination of scab among sheep," approved March 2, 1893, and all acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 15. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 92.

AN ACT

TO REGULATE CORPORATIONS ENGAGED IN THE BUSINESS OF GUARANTEEING OR ACTING AS SECURITY FOR THE FIDELITY OF PERSONS IN PUBLIC AND PRIVATE OFFICES, EMPLOYMENTS OR POSITIONS, AND THE AGENTS OF CERTAIN CORPORATIONS AND PRESCRIBING PENALTIES FOR FAILURE TO COMPLY WITH THE PROVISIONS THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That hereafter any corporation organized or controlled under the laws of this State, or of any state, or territory within the United States of America, or of any municipality of such state or territory, or of any foreign government, sovereignty or municipality for the purpose of issuing surety, guaranty or indemnity of bonds, guaranteeing the fidelity of persons in private office, employments or positions of trust and contracts, or for acting as surety on any such bonds, shall file with the Secretary of this State a certified copy of its articles of incorporation, and all amendments thereto.

SEC. 2. *Be it further enacted:* That such corporation shall file, with the certified copy of its articles of corporation and amendments thereto, a copy of its by-laws, together with the names and places of residence of its officers and directors, and a statement of its assets and liabilities

showing its net capital stock, and of what it consists, certified to by the president and secretary thereof.

SEC. 3. *Be it further enacted.* That no such corporation shall transact any business in this State, unless it is possessed of at least one hundred thousand dollars, actual capital stock, and if the capital stock of such corporation consists either in whole, or in part, of bonds, mortgages, securities, or other property than money, the Secretary of this State shall require satisfactory evidence that the market value thereof is at least one hundred thousand dollars.

SEC. 4. That such corporations before certificate of authority, hereafter provided for, is issued shall deposit with the Treasurer of this State money, bonds or other securities to be approved by the Secretary of this State to the amount of twenty-five thousand dollars.

SEC. 5. That the deposit required by the preceding section shall be held liable to pay any judgment that may be rendered against such corporation, and may be so decreed by the court rendering judgment against it, nor shall such company be permitted to withdraw from the State Treasurer, its deposit or bonds for a period of one year after discontinuing business within this State, or while any suit is pending, or any judgment against it in this State remains unsatisfied.

SEC. 6. That such corporation shall file with the certified copy of its articles of incorporation a power of attorney, under its corporate seal, authorizing the Treasurer of this State, or some designated agent, to accept service of any civil process for and on behalf of such corporation, and consenting that the service of any civil process upon the Treasurer of this State, or designated agent as the case may be, in any suit or proceedings in which the corporation is a party shall be taken and held to be valid. Said power of attorney shall be embodied in a resolution duly adopted by such corporation, and shall be signed by the president and secretary thereof, officially. If any agent other than the Treasurer of this State be designated by said power of attorney he shall be a citizen of this State, and his full name and place of residence shall be stated in the power of attorney.

SEC. 7. *Be it further enacted.* That when any such corporation has complied with the provisions of this Act, the Secretary of this State shall issue his certificate of authority authorizing said corporation to transact business in this State.

SEC. 8. *Be it further enacted:* That any person who solicits business for or in behalf of such corporation, or makes or transmits for any person other than himself, any application for a guaranty, or security, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive, or deliver, a contract of guaranty, or security, or who shall examine, or investigate the character of any applicant for a guaranty, or security, for any person or persons other than himself, or who shall refer any applicant for a guaranty or security to such corporation, whether any of said acts shall be done at the instance or request, or by the employment of such corporation or other corporation or person or any person who shall issue indemnifying bonds or contracts, whose solvency and compliance with his said bonds or obligations is guaranteed directly or indirectly by any corporations, shall be held to be the agents of the corporation, so far as relates to all the liabilities and penalties prescribed by this Act.

SEC. 9. That any person performing any of the acts or things mentioned in the preceding section for any such corporation without said corporation having first complied with the provisions of this Act, and having received the certificate of authority from the Secretary of this State, as provided in section seven of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof for the first offense shall be fined in any sum not less than one thousand dollars, and not more than two thousand dollars, and imprisonment in the county jail for the period of three months and for each subsequent offense, such person shall be fined in any sum not less than two thousand dollars, and confined in the county jail for a period of six months.

SEC. 10. That any persons or association of persons, or corporations, who shall accept any corporation created for the purpose or either of them mentioned in section one, of this Act, without such corporation having previously complied with the provisions and requirements of this Act, and having received from the Secretary of this State the certificate of authority provided for in section seven of this Act, shall forfeit as a penalty the sum of one thousand dollars, to be recovered by suit in the name of the State in any court of competent jurisdiction.

SEC. 11. That when any such corporation shall cancel or refuse to grant a bond of guaranty or indemnity, or shall notify the employer of the person whose fidelity is guaranteed, or to be guaranteed, that said corporation will no longer guarantee or be security or become guaranty of security for the fidelity of said person, or when said corporation has once guaranteed the fidelity of any person, or acted as security therefor and on application refuses to do so again, it shall furnish such person a full statement in writing, of the facts upon which the action of the corporation is based, and if such action be based in whole, or in part, on information all such information together with the name or names of the informants with their places of residence, and such corporation failing or refusing to furnish such written statement within thirty (30) days after a request therefor, shall be liable to the person injured in the sum of one thousand dollars, in addition to all other damages caused thereby, which may be sued for and recovered in any court of competent jurisdiction.

SEC. 12. That if any such corporation shall fail or refuse to comply with the provisions of section 11 of this Act the Secretary of this State shall revoke the certificate of authority issued to such corporation.

SEC. 13. *Be it further enacted:* That corporations controlled for the purpose mentioned in section one, of this Act are hereby declared to be charged with a public use.

SEC. 14. It shall be unlawful for any railroad or other corporation doing business within this State, to collect or retain from the wages of the persons in their employ, the cost of such guaranty or security, and such employees shall be permitted to select such guaranty or surety, company or companies or individuals, complying with the provisions of this Act, and such employees shall be permitted to pay the premium of their bonds, freely and voluntarily.

SEC. 15. That any corporation, company or individual complying with the provisions of this Act, issuing such bonds of indemnity, guaranty, or security, shall furnish the applicant with a true and complete copy of the original bond, furnished the corporation, company or individual to whom the bond was issued.

SEC. 16. It is also *Provided, further*, That nothing contained in this Act shall be construed to apply to any citizen or persons of this State offering or becoming surety, upon bonds or otherwise, for any other citizen or person without compensation to him or herself.

SEC. 17. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 93.

AN ACT

TO PROTECT TELEGRAPH COMPANIES, AND TO INSURE THE SECRECY OF DISPATCHES AND PROVIDING FOR THE PUNISHMENT OF ANY PERSON OR PERSONS FOR THE WILLFUL TAKING OFF OR DISCLOSING TELEGRAPH DISPATCHES AND TO ADD SECTION SEVEN THOUSAND ONE HUNDRED AND SEVENTY-THREE TO TITLE 13 OF THE PENAL CODE OF THE REVISED STATUTES OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 7173 be and the same is hereby added to title XIII of the Penal Code of the Revised Statutes as follows:

Section 7173. That whoever shall willfully and maliciously cut, break, tap or make any connection with, any telegraph or telephone wire or read, or copy, by the use of telegraph or telephone instruments or otherwise, in any unauthorized manner, any message, either social or business, sporting, commercial or other news reports, from any telegraph or telephone line, wire, or cable, so unlawfully cut or tapped in this State; or make unauthorized use of the same, or who shall willfully and maliciously prevent, obstruct or delay by any means or contrivance whatsoever, the sending, conveyance or delivery, in this State of any authorized communication, sporting, commercial or other news reports, by or through any telegraph or telephone line, cable or wire, under the control of any telegraph or telephone company doing business in this State; or who shall willfully and maliciously aid agree with, employ or conspire with, any other person or persons to do any of the afore mentioned unlawful acts, shall be deemed guilty of felony, and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment in the penitentiary for a period of not less than one nor more than five years, or by fine and imprisonment within the limits hereinbefore specified, at the discretion of the court.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 9th day of February, 1899.

H. B. NO. 94

AN ACT

TO ESTABLISH A SOLDIERS' HOME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That there shall be established in this State an institution under the name of the Soldiers' Home, which institution shall be a home for honorably discharged Union soldiers, sailors and marines, who served in the Union armies during the war of the rebellion, and also for the members of the State national guard disabled while in the line of duty, and veterans of the Mexican war: *Provided* that before any person is admitted to said Home, he shall have been a bona fide resident of this

State not less than four months prior to making application for admission thereto.

SEC. 2. To carry out the provisions of this Act, there is hereby appropriated out of any money, in the treasury not otherwise appropriated, the sum of twenty-five thousand dollars.

SEC. 3. Twenty-five thousand acres of land, granted to the State under the provisions of the Act of Congress, approved July 3d, 1890, granting to the State of Idaho, one hundred and fifty thousand acres of land for charitable and other purposes, are hereby set apart, and are reserved for the support, and maintenance of the said Soldiers' Home, out of the first lands selected under said grant and out of the first proceeds, arising from the sale of said lands, there shall be repaid to the State, the sum of twenty-five thousand dollars, appropriated by section 2, of this Act, together with interest thereon, at the rate of five per cent per annum, from the date of appropriation until paid.

SEC. 4. The Governor, the Secretary of State and the Attorney General shall be ex officio members of, and constitute a board of trustees of the Soldiers' Home. The Governor shall be chairman of said board, and the Secretary of State, the secretary thereof. The general supervision and the government of the Soldiers' Home shall be vested in said board of trustees, and a majority of said board shall constitute a quorum to do business. Said board shall have power to prescribe such rules and regulations as may be necessary, touching all matters connected with said Home not inconsistent with law.

SEC. 5. The board of trustees shall appoint a superintendent of said Soldiers' Home who shall hold office during the pleasure of the board.

The superintendent shall have entire control and management of the Home under such rules and regulations as may be prescribed by the board. He shall give a bond in favor of the State of Idaho in the penal sum of four thousand (\$4000 00) dollars conditioned on the faithful performance of his duties, such bond to be approved by the Governor. The superintendent shall receive as compensation for his services such sum as may be fixed by the board of trustees, not to exceed eight hundred (\$800.00) dollars per year, and rations.

SEC. 6. The board of trustees shall appoint a physician for the Home who shall receive a salary to be fixed by the board, not exceeding fifty (\$50 00) dollars per month, and who shall hold office during the pleasure of the board.

SEC. 7. Said board of trustees is authorized to select and purchase a site for said institution, consisting of not less than forty acres of land at an expense not exceeding the sum of three thousand dollars; and may receive donations of land for that purpose, and also donations of money and other valuables for the purposes of the Home, and may purchase a building or buildings if the same may be found satisfactory to the board. The title to such land must be approved by the Attorney General before the same is accepted; and when accepted shall be conveyed to the State of Idaho, and the deed therefor shall be duly recorded in the proper county, and then deposited with the Auditor of State *Provided* That no land or buildings shall be purchased if sufficient for the purpose shall be donated: *Provided* Such donation shall be in a location acceptable to the board.

SEC. 8. The said Soldier's Home shall at all times be subject to inspection by the board of managers of the national home for disabled volunteer soldiers, under such regulations as said board may adopt; and shall also be subject to inspection at any time by the Governor or any officer of his staff designated by him for the purpose of making such inspection.

SEC. 9. In making rules and regulations governing the admission, maintenance and discharge of the inmates of said Home, it shall be lawful for said board of trustees to make it a condition for admission to said Home, that all soldiers admitted thereto, receiving a pension from the United States exceeding four (\$4.00) dollars per month, shall pay over said excess to the board of trustees, and said board of trustees shall, in cases where such soldier has no wife or child living dependent upon him for support, or in circumstances of dependence and want, deposit said excess in the State treasury to the credit of the Soldier's Home fund, to be used in defraying the expenses of maintaining said institution, but if there be such wife or child so dependent upon said soldier then and in that case it shall be the duty of said board to pay over such excess, to such wife or child of such soldier, taking duplicate receipts therefor, one of which receipts shall be delivered to said soldier, and the other filed with the records of the board.

SEC. 10. The inmates of said Home shall be clad in the uniform of the Grand Army of the Republic, to be furnished by the State out of funds appropriated for such purpose.

SEC. 11. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its approval by the Governor.

Approved on the 9th day of February, 1899.

H. B. NO. 95.

AN ACT

TO PROVIDE FOR THE ORGANIZATION, GOVERNMENT, AND POWERS OF CITIES AND VILLAGES.

Be it enacted by the Legislature of the State of Idaho:

Cities of the Second Class.

SECTION 1. All cities, town and villages containing more than one thousand and less than fifteen thousand inhabitants shall be cities of the second class, and be governed by the provisions of this chapter, unless they shall adopt a village government as hereinafter provided.

SEC. 2. Each city of the second class shall be divided into not less than two nor more than six wards, as may be provided by ordinance of the city council thereof, and each ward shall contain, as nearly as practicable, an equal number of legal voters and an area as equal to each other as practicable.

SEC. 3. The council of each city of the second class shall consist of not less than four nor more than twelve citizens of said city, who shall be qualified electors and taxpayers under the Constitution and laws of the State of Idaho.

SEC. 4. Each ward of each city shall have at least two councilmen, who shall be chosen by the qualified electors of their respective wards, and who shall serve for two years and until their successors shall be elected and qualified; and no person shall be eligible to the office of councilman who is not at the time of his election an actual resident of the ward for which he is elected, and a qualified elector under the Constitution and laws of the State of Idaho; and if any councilman shall remove from the ward for

which he is elected, his office as a councilman shall thereby become vacated; *Provided*, At the first general city election under this chapter, there shall be two councilmen elected from each ward, the one receiving the greatest number of votes shall serve for two years, and the one receiving the next highest number of votes shall serve for one year; and one councilman for each ward at each annual election thereafter. Whenever there shall be a tie in the election of councilman, it shall be determined by lot by judges of election of the ward in which it shall happen.

SEC. 5. Regular meetings of the city council shall be held at such times as the council may provide by ordinance.

SEC. 6. At the time of holding the general city election in each year, there shall be elected a mayor, a clerk, a treasurer, a city engineer, and the councilmen hereinbefore provided for, and a police judge shall be elected at each biennial city election and the mayor with the consent of the council may appoint a city attorney and an overseer of streets, who shall hold their offices for one year unless sooner removed by the mayor with the advice and consent of the council. The mayor by and with the consent of the council shall appoint such a number of regular policemen as may be necessary, and may also appoint special policemen from time to time as exigencies arise. All police officers appointed by the mayor and council in accordance herewith, shall be removable at any time by the mayor.

Officers of the City.

SEC. 7. The salaries of all officers of the city shall be fixed by ordinance.

SEC. 8. The police judge shall receive the same fees as justices of the peace for similar services.

SEC. 9. All officers shall be qualified electors and taxpayers and reside within the limits of the city.

SEC. 10. The mayor shall preside at all meetings of the city council, and shall have a casting vote when the council is equally divided, and none other, and shall have the superintending control of all the officers and affairs of the city, and shall take care that the ordinances of the city and of this chapter are complied with.

SEC. 11. The mayor shall have power to veto or sign any ordinance passed by the city council: *Provided*, That any ordinance vetoed by the mayor may be passed over his veto by a vote of two-thirds of the members of the council elected, notwithstanding the veto, and should the mayor neglect or refuse to sign any ordinance and return the same with his objections, in writing, at the next regular meeting of the council, the same shall become a law without his signature.

SEC. 12. He shall, from time to time, communicate to the city council such information and recommend such measures as, in his opinion, may tend to the improvement of the finances of the city, the police, health, security, ornament, comfort and general prosperity of the city.

SEC. 13. The mayor or any three councilmen, shall have power to call special meetings of the city council, the object of which shall be submitted to the council in writing, and the call, and object, as well as the disposition thereof, shall be entered upon the journal by the clerk.

SEC. 14. The mayor shall have the power, when he deems it necessary, to require any officer of the city to exhibit his accounts or other papers, and to make reports to the council in writing, touching any subject or matter he may require pertaining to his office.

SEC. 15. The mayor shall have such jurisdiction as may be vested in him by ordinance, over all places within five miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him by ordinance, excepting taxation within one-half mile of the corporate limits of said city.

SEC. 16. In case of any vacancy in the office of mayor, or in case of his absence or disability, the president of the council for the time being, shall exercise the office of mayor until such vacancy be filled, or such disability removed; or in case of temporary absence, until the mayor shall return.

SEC. 17. The mayor is hereby authorized to call on every male inhabitant in the city over eighteen years of age and under the age of fifty years, to aid in enforcing the laws.

SEC. 18. The mayor shall have power to remit fines and forfeitures, to grant reprieves and pardons for all offenses arising under the ordinance of the city.

SEC. 19. The policemen of the city shall have power to arrest all offenders against the law of the State, or of the city, by day or by night, in the same manner as the sheriff or constable, and keep them in the city prison or other place, to prevent their escape, until trial can be had before the proper officer.

SEC. 20. The city engineer shall make estimates of the cost of all labor and materials which may be done or furnished by contract with the city, and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, bridges, curbing and gutters, and the improvement of streets and the erection and repair of buildings and shall perform such other duties as the council may require. Before the city council shall make any contract for building bridges or sidewalks, or for any work on the streets, or for any other work or improvement, an estimate of the cost thereof shall be made by the city engineer and submitted to the council, and no contract shall be entered into for any work or improvement for a price exceeding such estimate; and in advertising for bids for any such work the council shall cause the amount of such estimate to be published therewith.

SEC. 21. The overseer of the streets shall, subject to the orders of the mayor and council, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the city, and shall perform such other duties as the council may require.

Police Judge.

SEC. 22. The police judge shall have exclusive jurisdiction to hear and determine all offenses against the ordinances of the city, and jurisdiction concurrent with that which is or may be conferred upon justices of the peace, of misdemeanors under the laws of the State, arising within the limits of the city, and shall also have jurisdiction for the examination of offenders against the laws of the State, for offenses arising within the city limits.

SEC. 23. Whenever complaint shall be made to the police judge on oath or affirmation, of any person competent to testify against the accused, that an offense has been committed, of which the police judge has jurisdiction the police judge shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the sheriff or con-

stable of the county, or some person specially appointed in writing indorsed on the process by the police judge for that purpose, and whose return shall be made under oath.

SEC. 24. All fines and penalties collected, arising from a breach of ordinances of the city shall be paid to the city treasurer; and all fines and penalties collected arising from misdemeanors under the laws of the State, shall be paid to the county treasurer.

SEC. 25. When any person shall be brought before the police judge upon such warrant, it shall be his duty to hear and determine the complaint alleged against the defendant.

SEC. 26. Upon good cause shown, the police judge may postpone the trial of the case to a certain day, in which case he shall require the defendant to enter into recognizance with sufficient security, conditioned that he will appear before the said judge at the time and place appointed, then and there to answer the complaint alleged against him.

SEC. 27. In case of the breach of any recognizance entered into as aforesaid the same shall be certified to district court of the proper county to be proceeded upon according to law: if in the progress of any trial before said judge it shall appear that the accused ought to be put upon his trial for an offense not cognizable before said judge, he shall immediately stop all further proceedings before him, and proceed as in other cases cognizable before the district court.

SEC. 28. It shall be the duty of said judge to summon all persons whose testimony may be deemed material as witnesses at the trial, and to enforce their attendance, by attachment if necessary, and all witnesses shall receive the sum of fifty cents for each day's attendance.

SEC. 29. Cases in the police court arising under the ordinances of the city shall be tried and determined by the police judge without the intervention of a jury, unless the defendant demand a trial by jury, and when a demand shall be so made the trial shall be by a jury of six competent men, and shall be conducted in the same manner as trials before justices of the peace for misdemeanors arising under the general laws of the State.

SEC. 30. If the defendant is found guilty, the said judge shall declare and assess the punishment and render judgment accordingly; it shall be part of the judgment that the defendant stand committed, until the judgment is complied with.

SEC. 31. Whenever the defendant is sentenced to imprisonment for the violation of a city ordinance, he shall be put to work for the benefit of the city, under direction of the mayor, for the term of his imprisonment: and when committed for the non-payment of a fine or costs, for the violation of any ordinance, he shall also be put to work for the benefit of the city, and shall be credited on such fine and costs \$1.50 per day for each day he shall work.

SEC. 32. Any defendant committed under the provisions of this chapter for a misdemeanor arising under the laws of this State may be discharged in the same manner as if he had been committed by the district court.

SEC. 33. In all cases not herein especially provided for, the process, proceedings, and trial before the judge shall be governed by laws regulating proceedings in justices' courts in criminal cases.

SEC. 34. When a trial shall be continued by a judge, it shall not be necessary to summons any witnesses who may be present at the continuance, but the judge shall verbally notify such witnesses as either party may require, to attend before him to testify before him in the case on the day set for trial, which verbal notice shall be as valid as a summons.

SEC. 35. The police judge shall be a conservator of the peace, and his court shall be open every day except Sunday, to hear, try, and determine all cases cognizable before him, and he shall have power to bring parties forthwith to trial.

SEC. 36. Appeals may be taken from the judgments of the police judge, in the same manner as appeals are taken from the judgments of justices of the peace in criminal cases.

SEC. 37. In case of a vacancy in the office of police judge by death, resignation or otherwise, or in the case of the absence, interest or disability of such judge to perform his duty, it shall be the duty of an acting justice of the peace of the precinct in which such city is situated, and he may be designated by the mayor, to act as judge, during such vacancy, absence or disability in the trial of causes cognizable before said judge.

SEC. 38. The police judge shall have the power to enforce due obedience to all orders, rules, judgments, and decrees made by him and may fine or imprison for contempt offered to such judge whilst holding his court, or to process issued by him, in the same manner, and to the same extent as the district courts.

SEC. 39. Cities of the second class in their corporate capacities are authorized and empowered to enact ordinances for the following purposes, in addition to other powers granted by this Act:

FIRST.—To restrain, prohibit, and suppress billiard tables and bowling alleys kept for public use, houses of prostitution, and unlicensed tippling shops, and other disorderly houses and practices, gambling and gambling houses, and all kinds of public indecencies.

SECOND.—To make regulations to prevent the introduction of contagious diseases into the city, to make quarantine laws for that purpose, and enforce the same within five miles of the city.

THIRD.—To erect, establish and regulate hospitals, and to provide for the government and support of the same.

FOURTH.—To make regulations to secure the general health of the city, and to prevent and remove nuisances, and to provide the city with water.

FIFTH.—To establish night watch and police, and define the powers and duties of the same.

SIXTH.—To provide for and regulate the lighting of the streets, public buildings, and grounds, and the erection of lamp posts, and to levy and collect a special tax therefor, upon all the taxable property within the city limits.

SEVENTH.—To purchase and own grounds for, and to erect and establish market houses and market places.

EIGHTH.—To provide for the erection and government of any useful or necessary buildings for the use of the city.

NINTH.—To procure fire engines, hooks, ladders, buckets and other apparatus, and to organize fire engine, hook and ladder and bucket companies and to prescribe rules of duty, and the government thereof, with

such penalties as the council may deem proper, not exceeding one hundred dollars, and to make all necessary appropriation thereof.

TENTH.—To elect one of your body who shall be styled the “president of the council,” and who shall preside at all meetings of the council in the absence of the mayor; and, in the absence of the president, to elect one of their own body to occupy his place temporarily, who shall be styled “acting president of the council,” and the president and acting president, when occupying the place of mayor, shall have the same privileges as other members of the council; and all acts of the president or acting president, while so acting, shall be as binding upon the council and upon the city as if done by the mayor.

Villages.

SEC. 40. Any town or village containing not less than two hundred nor more than one thousand inhabitants, now incorporated as a city, town or village, under the laws of this State, or that shall hereafter become organized pursuant to the provisions of this Act, and any city of the second class which shall have adopted village government as provided by law, shall be a village, and shall have the rights, powers, and immunities hereinafter granted, and none other, and shall be governed by the provisions of this subdivision: *Provided*, That cities of the second class heretofore incorporated, and containing not more than fifteen hundred inhabitants, shall continue to be and exercise the powers of cities of the second class, and the officers thereof shall continue to exercise the powers conferred herein upon officers of such cities, until the first general election held therein, and the qualifications of village officers elected at said election: *Provided, further*, That whenever a majority of the taxable inhabitants of any town or village, not heretofore incorporated under any law of this State, shall present a petition to the county board of the county in which said petitioners reside, praying that they may be incorporated as a village, designating the name they wish to assume and the metes and bounds of the proposed village; and if such county board, or a majority of the members thereof, shall be satisfied that a majority of the taxable inhabitants of the proposed village have signed such petition, and that inhabitants to the number of two hundred or more are actual residents of the territory described in the petition, the said board shall declare the said proposed village incorporated, entering the order of incorporation upon their records, and designating the metes and bounds thereof; and thereafter the said village shall be governed by the provisions of this Act applicable to the government of villages. And the said county board shall, at the time of the incorporation of said village, appoint five persons having the qualifications provided in section 42 of this Act, as trustees who shall hold their offices and perform all the duties required of them by law, until the election and qualification of their successors at the time and in the manner provided in this Act.

SEC. 41. The corporate powers and duties of every village shall be vested in the board of trustees, to consist of five members.

SEC. 42. Any person may be a trustee who shall have attained the age of twenty-one years, and shall be a male citizen of the United States, or declared his intention to become such, who shall have been an inhabitant and taxpayer of the village at the time of his election, and resided therein for three months next preceding; and every trustee so elected shall hold his office for the term of one year; and until a successor is elected and qualified.

SEC. 43. Every trustee before entering upon the duties of his office, shall take an oath to support the Constitution of the United States and the Constitution of the State of Idaho and faithfully and impartially to discharge the duties of his office; and every board of trustees shall assemble within twenty days after their appointment or election, and choose a chairman from their number. The board of trustees shall by ordinance fix the time and place of holding their stated meetings and may be convened at any time by the chairman.

SEC. 44. At all meetings of the board a majority of the trustees shall constitute a quorum to do business; a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the board of trustees by ordinance may have previously prescribed.

SEC. 45. The board of trustees shall keep a journal of their proceedings, and at the desire of any member shall cause the yeas and nays to be taken and entered on the journal, on any question or ordinance, and the proceedings shall be public.

SEC. 46. Such board of trustees shall have power to pass by-laws, and ordinances to prevent and remove nuisances, to prevent, restrain and suppress bawdy houses, gambling houses and other disorderly houses, within the limits of such village, to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within such village; to establish night watches; to provide pest houses; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair and regulate wharves, and the rates of wharfage; to regulate the landing of steamboats, rafts and other water crafts; to provide for the inspection of lumber, building materials, and provisions, to be used or offered for sale in such village, or to be exported therefrom; to require and regulate the planting and protection of shade trees in the streets, and the building of stairways, railways, doorways, awnings, hitching posts and rails, lamp posts, awning posts, and all other structures projecting upon or over and adjoining, and other excavations through and under the sidewalks of such village; and in addition to the special powers herein conferred and granted, maintaining the peace, good government and welfare of the town or village, and its trade, commerce and manufactures, and to enforce all ordinances by inflicting penalties upon inhabitants or other persons, for the violation thereof, not exceeding one hundred dollars for any one offense, recoverable with costs, together with judgment of imprisonment until the amount of said judgment and costs shall be paid.

SEC. 47. Such board of trustees shall appoint a clerk, treasurer, and attorney.

SEC. 48. The trustees shall receive no compensation. The compensation of the other officers shall be fixed by ordinances.

SEC. 49. The chairman of such board of trustees shall cause to be printed and published the by-laws and ordinances of the boards, for the information of the inhabitants, and cause the same to be carried into effect, and in case of the absence of the chairman of the board from any meeting of the board of trustees, such board shall have power to appoint a chairman, pro tempore, who shall, for the time being, exercise and have the powers, and perform the same duty, as the regular chairman.

SEC. 50. The board of trustees shall give public notice of the time and place of holding such election; said notice to be given not less than ten nor more than twenty days previous to the election.

SEC. 51. If, on any day appointed for holding any election under the provisions of this chapter, any of the judges or clerks of election shall fail to attend, the electors present may fill such vacancies from among the qualified electors present.

SEC. 52. Justices of the peace of any precinct in which any village or any part thereof may be situated, and justices of the peace elected in said village, shall have jurisdiction to hear, try and determine all offenses against the general ordinances of such village, and for that purpose may issue warrants for the arrest of any alleged offender, upon information under oath as in other cases; and upon the arrest of the defendant by the sheriff or any constable of the county, shall proceed thereon in all respects in the same manner and with the same powers as against persons charged with a misdemeanor under the general laws of the State; and the justice by or before whom such proceedings shall be had, and the officer making such arrest, shall be entitled to the same fees, and, to be collected in the same manner as in cases of prosecutions for misdemeanors.

Adoption of Village Government.

SEC. 53. Whenever any city of the second class, containing more than fifteen hundred inhabitants desires to discontinue its organization as a city and organize as a village, and one-fourth of the legal voters of such city shall petition the city council, the council shall cause to be published for at least thirty days, a notice stating that the question of adopting village government will be submitted at the next annual city election. The form of the ballot shall be, "for organization as a village" and "against organization as a village;" and at the same election the qualified voters shall also vote for five trustees for the village. If a majority of the votes cast are "for organization as a village," then such city shall, within sixty days after such election be and become a village, and be governed under the provisions of the law relating to villages, unless it shall be at some future annual city election adopt a city government, in the manner provided herein for its adoption of village government.

SEC. 54. If village government shall have been adopted as aforesaid, the board of trustees shall at the expiration of sixty days from said election enter upon the duties of their offices and all books, papers, records, money and property of such city shall be delivered over to the board of trustees, and the authority of the city council and all city officers shall cease from and after the taking effect of village government in such city.

SEC. 55. All ordinances of the city shall remain and be in full force in the village, until amended or repealed by the board of trustees, and the board shall provide for the payment of the city indebtedness and levying necessary taxes thereof, as if the same had been incurred by the village.

General Provisions Applicable to Cities of the Second Class and Villages.

SEC. 56. Cities of the second class and villages governed by this chapter, shall be bodies corporative and politic, and may sue and be sued: contract or be contracted with, acquire, hold and convey property real or personal; have a common seal, which they may change and alter at

pleasure; and such other powers as may be conferred by law. *Provided,* That real property shall only be conveyed by the proper authorities of such city or village when so authorized by a vote of the electors thereof.

SEC. 57. The corporate name of each city or village governed by this chapter shall be, the "city (or village) of ————" and all and every process and notice whatever affecting such corporation, shall be served upon the mayor or chairman of the board of trustees, and in his absence, upon the clerk, or in the absence of such officers, then by leaving a certified copy at the office of the clerk.

SEC. 58. All rights and privileges which have accrued to any city, town or village held by any officer of such corporation, under or by virtue of any act of the Legislature of the Territory or State of Idaho, or any act of the Congress of the United States, before the taking effect of this chapter, are hereby preserved to such cities, towns or villages, and all its said trusts, rights and privileges shall be transmitted to and be vested in such latter corporation, and all actions heretofore commenced by or against any city or town which shall be, or become a city or village under the provisions of this chapter, shall be in no manner affected by this Act, but all such actions shall be continued to final judgment and satisfaction as if this chapter had not been passed.

SEC. 59. The style of all ordinances shall be: "Be it ordained by the mayor and council of the city of ———— or the chairman and board of trustees of the village of ———— and all ordinances of a general nature shall, before they take effect within one month after they are passed, be published by written or printed handbill or one time in some newspaper published in the city or village, but if no paper be published within said city or village, then in some paper having general circulation therein: *Provided, however,* That in case of riot, infectious or contagious diseases, or other impending danger, requiring its immediate operation, such ordinances shall take effect upon the proclamation of the mayor or chairman of the board of trustees, posted in at least five public places in the city or village.

SEC. 60. On the first Tuesday of April of each year, an election shall be held in each city and village governed by this chapter, for officers as in this chapter provided, all of which officers except councilmen shall be elected and hold their respective offices for the term of one year, and until their successors are elected and qualified, at which election the qualified voters of each city may cast their ballots between the hours of nine o'clock a. m. and seven o'clock p. m.

SEC. 61. All qualified electors of this State who shall have resided within the limits of any city of the second class, or village for three months preceding any election therein, shall be entitled to vote at all city and village elections.

SEC. 62. Certificates of election for all offices of cities and villages shall be made out under the corporate seal by the city council or board of trustees, at their first meeting after any election of such officers.

SEC. 63. The city or village clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the council or board of trustees; he shall also keep a record of all outstanding bonds against the city or village, showing the number and amount of each, for and to whom the said bonds were issued; and when any

bonds are purchased or paid or cancelled, said record shall show the fact, and in his annual report, he shall describe particularly, the bonds issued and sold during the year, and the terms of sale, with each and every item of expense thereof; he shall also perform such other duties as may be required by the ordinances of the city.

SEC. 64. The treasurer of each city and village shall be the custodian of all money belonging to the corporation; he shall keep a separate account of each fund or appropriation, and the debits and credits belonging thereto; he shall give to every person paying money into the treasury a receipt therefor specifying the date of payment and on what account paid; he shall also file copies of such receipts with his monthly reports; he shall at the end of each and every month, and as often as may be required, render an account to the city council or board of trustees, under oath showing the state of the treasury at the date of such account, and the balance of money in the treasury: he shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him; which said warrants, with any and all vouchers held by him, shall be filed with his said account in the clerk's office, and if said treasurer neglect or fail for the space of ten days from the end of each and every month, to render his said account, his office shall be declared vacant, and the city council or board of trustees shall fill the vacancy by appointment until the next election for city or village officers.

SEC. 65. It shall be the duty of the board of trustees in every incorporated town, city or village within the State of Idaho, to cause to be kept an accurate account of all moneys received; the sources from whence derived, and all moneys expended, and the purposes to which applied.

SEC. 66. It shall be the duty of the treasurer of such towns, cities and villages to cause to be published for at least one insertion in some newspaper within said town, city or village between the first and second Mondays of January, April, July and October of each year a full statement of the receipts and expenditures of said town giving the source from whence received; to what purpose applied and to whom paid.

SEC. 67. For the purpose of causing these reports to be published as required the trustees of every city, town and village shall make such provision as may be necessary, to carry into effect the requirements of this Act.

SEC. 68. A failure upon the part of the treasurer of any town, city or village to comply with the requirements of this Act shall be deemed a misdemeanor.

SEC. 69. The treasurer may be required to keep all money in his hands belonging to the corporation in such place or places of deposit as may be provided by ordinances, but no such ordinance shall be passed by which the custody of such money shall be taken from the treasurer and deposited elsewhere than in some regularly organized bank, nor without a bond to be taken from such bank, in such penal sum and with such security as the council or board of trustees shall direct and approve, sufficient to save the corporation from any loss, but such penal sum shall not be less than the estimated receipts for the current year from taxes and special assessments levied and to be levied by the corporation.

SEC. 70. All warrants drawn upon the treasurer must be signed by the mayor or chairman, and countersigned by the clerk, stating the particular

fund or appropriation to which the same is chargeable and the person to whom payable, and for what particular object; no money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount levied and appropriated to the fund upon which it is drawn, and the amount already expended of such fund.

SEC. 71. The city or village attorney shall be the legal adviser of the council and board of trustees. He shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted or defended on behalf of the corporation or that may be ordered by the council or board of trustees; and when requested, shall attend meetings of the council or board and give them his opinion upon any matters submitted to him either orally or in writing as may be required.

SEC. 72. No officer of any city or village shall be interested directly or indirectly in any contract of which the corporation or any one for its benefit is a party; and any such interest in any such contract shall avoid the obligation thereof, on the part of such corporation, nor shall any officer receive any pay or perquisites from the city other than his salary as fixed by ordinance and this chapter; and neither the city council or board of trustees shall pay or appropriate any money or other valuable thing to any person not an officer, for the performance of any act, service or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of such corporation.

SEC. 73. In addition to the powers herein before granted cities and villages under the provisions of this chapter, each city and village may enact ordinances or by-laws for the following purposes:

FIRST. To levy taxes for general revenue purposes not to exceed mills on the dollar in any one year on all the property within the limits of said cities and villages taxable according to the laws of the State of Idaho, the valuation of such property to be ascertained from the books or assessment rolls of a tax collector of the proper county.

SECOND. To levy any other tax or special assessment authorized by law.

THIRD. To provide for the grading and repairs of any street, avenue or alley and the construction of bridges, culverts and sewers, and shall defray the expenses of the same out of the general funds of such city or village not exceeding two mills of the levy for general purposes, but no street shall be graded except the same be ordered to be done by the affirmative vote of two-thirds of the city council or trustees.

FOURTH. To construct sidewalks, to curb, pave, gravel, macadamize and gutter any highway or alley therein, and to levy a special tax on the lots and parcels of land fronting on such highway or alley to pay the expense of such improvement. But unless a majority of the resident owners of the property subject to assessment for such improvement petition the council or trustees to make the same, such improvements shall not be made until three-fourths of all the members of such council or trustees, shall by vote, assent to the making of the same.

FIFTH. To repair sidewalks and to assess the expense thereof on the property in front of which such repairs are made.

SIXTH. To provide for the laying of temporary plank sidewalks upon the natural surface of the ground, without regard to the grade on streets not permanently improved, at a cost not exceeding fifty cents a linear foot, and to provide for the assessment of the cost thereof on the property in front of which the same shall be laid.

SEVENTH. To provide for sprinkling the streets, avenues, and thoroughfares therein, or such part thereof and for such time, as may be deemed necessary by contract or otherwise; and to levy a special tax on the lots or parcels of ground fronting or abutting upon such street, avenue or thoroughfare, so to be sprinkled, to pay the expense of such benefit or improvement. But unless a majority of the resident owners or occupants of the property subject to such assessment for such benefit or improvement, petition the council or trustees to make the same, such sprinkling shall not be done until three-fourths of all the members of such council or trustees shall by vote, assent to and order the same.

EIGHTH. Assessments made under the provisions of the last four subdivisions of this section shall be made and assessed in the following manner: 1st. Such assessment shall be made by the council or board of trustees at a special meeting by resolution fixing the valuation of each lot assessed, taking into account the benefits derived or injuries sustained in consequence of such contemplated work or improvement, and the amount charged against the same, which with the vote thereon by yeas and nays, shall be spread at length upon minutes, notice of the time of holding such meetings, and the purpose for which it is to be held shall be published in some newspaper published and of general circulation in said city or village, at least four weeks before the same shall be held, or in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed. 2nd. All such assessments shall be known as, "special assessments for improvements," and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, to be placed on the tax roll for collection, subject to the same penalties, and collected in like manner, as other city or village taxes.

NINTH. To raise revenue by levying and collecting a license tax on any occupation or business within the limits of the city or village, and to regulate the same by ordinance. All such taxes shall be uniform in respect to the classes upon which they are imposed. *Provided, however,* That all scientific and literary lectures and entertainments shall be exempt from such taxation as well also as concerts and other musical entertainments given exclusively by citizens of the city or village.

TENTH. To license, regulate, and prohibit the selling or giving away of any intoxicating, malt, vinous, mixed or fermented liquor, the license not to exceed beyond the municipal year in which it shall be granted, and to determine the amount to be paid for such license: *Provided,* That the city council or board of trustees may grant permits to druggists for the sale of liquors for medicinal, mechanical, sacramental, and chemical purposes only, subject to forfeiture, and under such restrictions and regulations as may be provided by ordinance: *Provided further,* That in granting licenses such corporate authority shall comply with whatever general laws of the State may be in force relative to the granting of licenses.

ELEVENTH. To impose a license tax of not less than three nor more than ten dollars upon the owners and harborers of dogs, and enforce the same by appropriate penalties, and to authorize the destruction of any dog, the owner or harborer of which shall neglect or refuse to pay such license tax. *Provided,* That no such license shall authorize the keeping, owning, or harboring of more than one dog.

TWELFTH. To appoint judges and clerks of all elections, and prescribing the manner of conducting the same, and the return thereof, and of holding special elections for any purpose provided by law.

THIRTEENTH. To make all such ordinances, by-laws, rules, regulations, resolutions, not inconsistent with the laws of the State as may be expedient, in addition to the special powers in this chapter granted, maintaining the peace, good government, and welfare of the corporation, and its trade, commerce, manufactories, and to enforce all ordinances by inflicting fines or penalties for the breach thereof, not exceeding one hundred dollars for any one offense, recoverable with costs, and in default of payment, to provide for confinement in prison or jail, and at hard labor upon the streets or elsewhere for the benefit of the city or village.

FOURTEENTH. To regulate and prescribe powers and duties, and compensation of officers, not herein provided for, and to require of all officers and servants elected or appointed, bonds and security for the faithful performance of their duties.

FIFTEENTH. To make contracts with, and authorize any person, company or association, to erect gas works and give such persons, companies or association the exclusive privilege for furnishing gas to light the streets, lanes and alleys, for any length of time not exceeding twenty-one years.

SIXTEENTH. To establish, alter and change the channels of water courses, and to wall them and cover them over; to establish make and regulate public wells, cisterns, windmills, aqueducts and reservoirs of water and to provide for the filling of the same.

SEVENTEENTH. To regulate the running at large of cattle, hogs, horses, mules, sheep, goats, dogs and other animals, and to cause such as may be running at large to be impounded and sold to discharge the costs and penalties provided for the violation of such prohibition, and the expense of impounding and keeping the same, and of such sale.

EIGHTEENTH. To provide for the erection of all needful pens and pounds, within or without the city limits, and to appoint and compensate keepers thereof, and to establish and enforce rules governing the same.

NINETEENTH. To regulate the construction of and order the suppression and cleaning of fire places, chimneys, stoves, stove-pipes, ovens, boilers, kettles, forges, or any apparatus used in any building manufactory or business, which may be dangerous in causing or promoting fires, and to prescribe limits within which no dangerous or obnoxious and offensive business may be carried on.

TWENTIETH. To prescribe and alter limits within which no building shall be constructed except of brick, stone or other incombustible material, with fire-proof roof, and after such limits are established no special permits shall be given for the erection of buildings of combustible material within said limits.

TWENTY-FIRST. To regulate levies, depots, depot grounds, and places for storing freights and goods, and to provide for and regulate the passage of railways through streets and public grounds of the city or village.

TWENTY-SECOND. To regulate the crossing of railway tracks, and to provide precautions and prescribe rules regulating the same; and to reg-

ulate the running of railway engines, cars or trucks within the limits of said city or village, and prescribe rules relating thereto, and to govern the speed thereof and to make any other and further provision, rules, and restrictions to prevent accidents at crossings, and on the tracks of railways, and to prevent fires from engines.

TWENTY-THIRD. To establish standard weights and measures, and regulate the weights and measures to be used in the city or village, and to regulate the weighing and measuring of every commodity sold in the city or village, in all cases not otherwise provided by law.

TWENTY-FOURTH. To provide for the inspection and weighing of hay, grain and coal, the measuring of wood and fuel to be used in the city or village, and to determine the place or places of the same and to regulate and prescribe the place or places of exposing for sale hay, coal and wood, to fix the fees and duties of persons authorized to perform the duties named in this subdivision.

TWENTY-FIFTH. To remove all obstructions from the sidewalks, curbstones, gutters, and cross-walks, at the expense of the person placing them there, or of the city or village, and to require and regulate the planting and protection of shade trees in the streets, the building of bulk-heads, cellar and basement ways, stairways, railways, window and doorways, awnings, hitching posts and rails, lamp posts, awning posts, and all other structures projecting upon or over and adjoining, and all other excavations through or under the sidewalks in said city or village.

TWENTY-SIXTH. To prevent and restrain riots, routs, noises, disturbances, or disorderly assemblies; to regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or any other dangerous combustible materials in the streets, lots, grounds, alleys, or about or in the vicinity of any building; to regulate, prevent, and punish the carrying of concealed weapons; to arrest, regulate, punish, fine or set at work on the streets or elsewhere all vagrants and person, found without visible means of support or some legitimate business.

TWENTY-SEVENTH. To prevent and remove all encroachments into and upon all sidewalks, streets, avenues, alleys or other city or village property, and to punish and prevent all horse racing, fast driving or riding in the streets, highways, alleys, bridges, or places in the city or village, and all games, practices, or amusements therein likely to result in damage to any person or property; to regulate, prevent, and punish the riding, driving or passing of horses, mules, oxen, cattle or other teams, or any vehicle drawn thereby, over, upon or across, sidewalks, or along any streets of the city or village.

TWENTY-EIGHTH. To open, widen, or otherwise improve or vacate any street, avenue, alley or lane, within the limits of the city or village; and also to create, open and improve any new street, avenue, alley or lane; *Provided*, that all damages, sustained by the citizens of the city or village or of the owners of the property therein shall be ascertained in such manner as shall be provided by ordinance; *Provided, further*, that whenever any street, avenue, alley or lane, shall be vacated, the same shall revert to the owner of the adjacent real estate one-half on each side thereof.

TWENTY-NINTH. To create, open, widen or extend any street, avenue, alley, or lane or annul, vacate, or discontinue the same whenever deemed expedient for the public good, and to take private property for

public use or for the purpose of giving right of way or other privilege to any railroad company or for the purpose of erecting or establishing market houses or market places, or for any other necessary public purpose. *Provided, however,* That in all cases the city or village shall make the person or persons whose property shall be taken or injured thereby adequate compensation therefor, to be determined by the assessment of five disinterested holders who shall be elected and compensated as may be prescribed by ordinance and who shall in the discharge of their duties, act under oath faithfully and impartially to make the assessment to be submitted.

THIRTIETH. To borrow money on the credit of the city and pledge the credit, revenue and public property of the city for the payment thereof, when authorized in the manner hereinafter provided; and to evidence the same by the issuance of bonds, with proper interest coupons attached thereto.

THIRTY-FIRST. All ordinances shall be passed pursuant to such rules and regulations as the council or board of trustees may provide; and all such ordinances may be proved by the certificate of the clerk under the seal of the city or village and when printed or published in book or pamphlet form, and purported to be published by authority of the city or village shall be read and received in evidence in all courts and places without further proof.

THIRTY-SECOND. The council or trustees shall cause to be published semi-annually, a statement of the receipts of the corporation and sources thereof and an itemized account of expenditures, with a statement of the financial condition of the city or village.

THIRTY-THIRD. To purchase, hold, and pay for, in the manner herein provided, lands not exceeding eighty acres in one body outside of the limits, for the purpose of the burial of the dead and all necessary grounds for hospital ground and water works.

THIRTY-FOURTH. To survey, plat, map, grade, fence, ornament and otherwise improve all burial and cemetery grounds and avenues leading thereto, owned by said city or village; to construct walks and protect ornamental trees therein and provide for paying the expenses thereof.

THIRTY-FIFTH. To convey cemetery lots by certificates signed by the mayor or chairman and countersigned by the clerk under the seal of the city or village, specifying that the person to whom the same is issued is the owner of the lot or lots, described therein by number, as laid down on such map or plat, for the purpose of interment; and such certificate shall vest in the proprietor, his or her heirs or assigns, a right in fee simple to such lots for the sole purpose of interment, under the regulation of the city, council, or board of trustees, and such certificate shall be entitled to be recorded in the office of the county recorder of the proper county, without further acknowledgement, and such description of lots shall be deemed and recognized as a sufficient description thereof.

THIRTY-SIXTH. To limit the number of cemetery lots which shall be owned by the same person at the same time; to prescribe rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots; to prohibit any diversion of the use of such lots, and any improper adornment thereof; but no religious test shall be made as to the ownership of the lots, the burial therein, or the ornamentation of graves or of such lots.

THIRTY-SEVENTH. To pass rules and ordinances imposing penalties and fines not exceeding one hundred dollars, regulating, protecting and governing the cemetery, the owners of lots therein, visitors thereof and trespassers therein, and the officers of such city or village shall have as full jurisdiction and power in the enforcing of such rules and ordinances as though they related to the corporation itself.

SEC. 74. Each city and village governed by this chapter is hereby empowered to provide that all the able bodied male residents of the corporation between the ages of twenty-one and fifty years, shall, between the first day of April and the first day of September of each year, either by themselves or satisfactory substitutes perform two days' labor upon the streets, alleys or highways within such corporation at such times as the proper officer may direct and upon three days' notice in writing given. They may further provide that for each day's failure to attend and perform the labor as required at the time and place specified, the delinquent shall forfeit and pay to the corporation any sum not exceeding one dollar for each day's delinquency. The amount so due shall be treated and collected as taxes on property and the same shall be a lien on all the property of such persons that may be listed and assessed for taxation for that year; and it shall be the duty of the city council or trustees to certify the amount due from each individual as aforesaid to the county tax collector as hereinafter provided. And the certificate of the city or village clerk, under the seal of the city, that the person named therein has performed as herein required shall be received by the county tax collector in discharge of the amount due from such person.

SEC. 75. Each city and village governed by this chapter shall have power to cause any lot of land within its limits on which water may at any time become stagnant to be filled up or drained in such manner as may be directed by a resolution of the council or trustees; and such owner or his agent shall, after service of a copy of such resolution or after a publication of the same in some newspaper of general circulation in such corporation for two consecutive weeks, comply with the directions of such resolution within the time therein specified; and in case of a failure or refusal to do so, it may be done by said corporation; and the amount of money so expended shall be assessed against such property, and the amount thereof collected as other special assessments.

SEC. 76. Fines may in all cases, and in addition to any other mode provided be recovered by suit or action before a justice of the peace or other court of competent jurisdiction, in the name of the State and in any such suit or action where pleadings are necessary, it shall be sufficient to declare generally for the amount claimed to be due in respect to the violation of the ordinance referring to its title and the date of its adoption or passage and showing as near as may be, the facts of the alleged violation.

SEC. 77. Any city or village shall have the right to use the jail of the county for the confinement of such persons as may be liable to imprisonment under the ordinances of such city or village, but it shall be liable to the county for the cost of keeping such prisoners.

SEC. 78. All suits for the recovery of any fine and prosecutions for the commission of any offense made punishable as herein provided, shall be barred in one year after the commission of the offense for which the fine is sought to be recovered or the prosecution is commenced.

SEC. 79. The emoluments of no officer whose election or appointment is required by this chapter shall increase or diminish during the term for which he shall have been elected or appointed; and no person who shall have resigned or vacated any office shall be eligible to the same during the time for which he was elected or appointed when during the same time the emoluments had been increased.

SEC. 80. On the passage or adoption of every by-law or ordinance, and every resolution or order to enter into a contract by the council or board of trustees, the yeas and nays shall be called and recorded, and to pass or adopt any by-law, ordinance or any such resolution or order, a concurrence of a majority of the whole number of members elected to the council or trustees shall be required; all appointments of the officers by any council or trustees shall be made viva voce and the concurrence of a like majority shall be required and the names of those, and for whom they voted, on the vote resulting in an appointment shall be recorded.

SEC. 81. The city council or board of trustees shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares and commons within the city or village, and shall cause the same to be kept open and in repair and free from nuisances. The city shall have powers by ordinance to sell and convey all public squares, streets and alleys within the cities or villages; *Provided*, A petition containing the signature of three-fourths of the property holders of said city be presented to the city council, and that said petition be published not less than four weeks in a paper published in said city, and that any person aggrieved by said sale shall state cause why said property should not be sold to the district court of said county wherein said city is situated and if the said court shall decide that said party or parties have shown good and sufficient cause why said public property should not be so disposed of, then said public property shall not be sold. The proceeds of such property shall not be used for any other purpose except to pay any indebtedness against said city or for public improvement in said city; all public bridges exceeding sixty feet in length over any stream crossing a state or county highway shall be constructed and kept in repair by the county;

Provided, That when any city or village has constructed a bridge over sixty feet span on any county or state highway within their corporate limits and have incurred a debt for the same, then the treasurer of the county in which said bridge is located shall pay to the treasurer of said city or village, seventy-five per cent of all bridge taxes collected in said city or village until said debt is fully paid and interest upon the same:

Provided, further, That the council or trustees may appropriate in the manner hereinafter provided, a sum not exceeding five dollars per lineal foot to aid in the construction of any county bridge within the limits of such city, or may appropriate a like sum to aid in the construction of any bridge contiguous to said city or village on a highway leading to the same, or any bridge across any unnavigable river which divides the county in which said city or village is located, from another state, and that no street or alley which shall hereafter be dedicated to public use by the proprietor of ground in any city or village, shall be deemed a public street or alley or to be under the use or control of the city council or board of trustees unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose.

SEC. 82. No charge or assessment of any kind shall be made or levied on any wagon or other vehicle or the horses thereto attached, or on the owner bringing produce or provisions to any of the markets in the city or village, or standing in or occupying a place in any of the market spaces of the city or village or in the streets contiguous thereto, on market days and evenings previous thereto; but the city council or board of trustees shall have full power to prevent forestalling, to prohibit or regulate hucksterings in the markets, to prescribe the kind and description of articles which may be sold and the stands or places to be occupied by the venders, and may authorize the immediate seizure and arrest, or removal from the markets of any person violating its regulations as established by ordinance, together with any article of produce in their possession, and the immediate seizure and destruction of tainted or unsound meat or other provisions.

SEC. 83. All ordinances and resolutions, or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the council or board of trustees; ordinances of a general or permanent nature shall be fully and distinctly read on three different days, unless three-fourths of the council or trustees shall dispense with the rule; ordinances shall contain no subject, which shall not be clearly expressed in its title, and no ordinance or section thereof shall be revised or amended unless the new ordinance contain the entire ordinance or section as revised or amended and the ordinance or section so amended shall be repealed.

SEC. 84. All claims against the city or village must be presented to the council or trustees in writing, with a full account of the items, verified by the oath of claimant, or his agent, that the same is correct, reasonable and just and no claims or demands shall be audited or allowed unless presented and verified as provided for in this chapter; and no costs shall be recovered against such city or village in any action brought against it for any unliquidated claim which has not been presented to the city council or board of trustees to be audited, nor upon claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed with interest due.

SEC. 85. Upon the allowance of claims by the council or trustees, the order for their payment shall specify the particular fund or appropriation out of which they are payable as specified in the annual appropriation bill to be passed in the manner hereinafter provided; and no order or warrant shall be drawn in excess of fifty per centum of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the treasury at the credit of the proper fund for its payment, and no claim shall be audited or allowed except an order or warrant for the payment thereof may legally be drawn.

SEC. 86. The council or trustees of each city or village shall at the time provided by law, cause to be certified to the county tax collector the percentage or number of mills on the dollar of tax levied for all city or village purposes by them on the taxable property within said corporation for the year then ensuing as shown by the assessment roll for said year, including all special assessments and taxes assessed as hereinbefore provided and the said tax collector shall place the same on the proper tax lists to be collected in the manner provided by law for the collection of State and county taxes in the county where such city or

village is situated and in all sales for any delinquent taxes for municipal purposes, if there be other delinquent taxes from the same person or lien upon the same property, the sale shall be for all the delinquent taxes; and such sales and all sales made under and by virtue of this section or the provisions of law herein referred to shall be of the same validity, and, in all respects, be deemed and treated as though sales had been made for the delinquent State and county taxes, exclusively. The amount which may be so certified, assessed and collected, shall not exceed ten mills on the dollar to defray its general and incidental expenses, together with any special assessment or special taxes, or amounts so assessed as taxes under the provisions of this chapter and such sum as may be authorized by law to be levied for the payment of outstanding bonds and debts.

SEC. 87. All delinquent taxes of any city or village, delinquent at the time of the adoption of this chapter shall be certified, together with the tax lists, to the county tax collector and be collected in the same manner as delinquent State and county taxes; and all sales of property for such delinquent municipal taxes shall be as valid, and in all respects, be deemed and treated as though such sales had been made for delinquent State and county taxes.

SEC. 88. The tax collector of the county shall pay over on demand, to the treasurer of any city or village, all money received by him arising from taxes levied belonging to such city or village, together with all money collected as a tax on dogs from the residents of such corporation, for the use of the general fund therein.

SEC. 89. The fiscal year of each city or village shall commence on the first Tuesday of May.

SEC. 90. The city council of cities, and board of trustees, in villages shall, within the first quarter of each fiscal year pass an ordinance to be termed the annual appropriation bill, in which such corporate authorities may appropriate such sum or sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such corporation not exceeding in the aggregate the amount of tax authorized to be levied during that year, and at the same time said city council of cities, and board of trustees, in villages, unless provision shall have been made as provided by law, for the funding, refunding, purchase, redemption or exchange of the outstanding city or village warrant indebtedness, must whenever any city or village shall have warrants outstanding and unpaid for the payment of which there are no funds in the city or village treasury in addition to other taxes provided by law, if such warrants amount to a sum equal to five per cent or more of the value of the taxable property of such city or village as shown by the last preceding assessment, levy and include in such annual appropriation bill, a special tax assessment of not to exceed ten mills on the dollar, as shown by such preceding assessment; if such warrants amount to a sum equal to four per cent and less than five per cent of such taxable property, they must levy and include in such annual appropriation bill, a special tax or assessment of not to exceed eight mills on the dollar as shown by such preceding assessment; if such warrants amount to a sum equal to three per cent and less than four per cent of such taxable property, they must levy and include in such annual appropriation bill a special tax or assessment of not to exceed six mills on the dollar as shown by such preceding assessment; if

such warrants amount to a sum equal to two per cent and less than three per cent of such taxable property, they must levy and include in such annual appropriation bill a special tax or assessment of not to exceed four mills on the dollar as shown by such preceding assessment; if such warrants amount to one per cent and less than two per cent of such taxable property, they must levy and include in such annual appropriation a special tax or assessment of not to exceed two mills on the dollar as shown by such preceding assessment; and if such warrants amount to less than one per cent of such taxable property, then they must levy and include in such annual appropriation bill such special tax or assessment on the dollar as shown by such preceding assessment as shall be sufficient to pay such warrants. All moneys arising from such special tax or assessment shall be placed in a special fund for the redemption of such warrants which shall be paid exclusively out of said fund, which shall be known as the warrant redemption fund. All moneys in the city or village treasury at the end of each fiscal year, not needed for current expenses, and applicable thereto, shall be transferred to said warrant redemption fund. Such ordinance shall specify the object and purposes for which such appropriations are made, and the amount appropriated for each object or purpose. No further appropriation shall be made at any other time within such fiscal year, unless the proposition to make each appropriation has been first sanctioned by a majority of the legal voters of such city or village, either by a petition signed by them, or at a general election duly called therefor, and all appropriations shall end with the fiscal year for which they were made.

SEC. 91. Before such annual appropriation bill shall be passed, the council or trustees shall prepare an estimate of the probable amount of money necessary for all purposes to be raised in said city or village during the fiscal year for which the appropriation is to be made, including interest and principal due on the bonded debt and sinking fund, itemizing and classifying the different objects and branches of expenditures as near as may be with a statement of the entire revenue of the city or village for the previous fiscal year, and shall enter the same at length upon its minutes and cause the same to be published four weeks in some newspaper published or of general circulation in the city or village.

SEC. 92. The mayor and council, or board of trustees, shall have no power to appropriate, issue or draw any order or warrant on the treasurer for money, unless the same has been appropriated or ordered by ordinance or the claim, for the payment of which such order or warrant is issued, has been allowed according to the provisions of this chapter, and appropriations for the class or object out of which such claim is payable has been made as provided in section 90. Neither the city council nor board of trustees, nor any department or officer of the corporation, shall add to the corporation expenditures in any one year anything over and above the amount provided for in the annual appropriation bill for the year, except as herein otherwise specially provided; and no expenditures for an improvement to be paid for, out of the general fund of the corporation, shall exceed in any one year the amount provided for such an improvement in the annual appropriation bill, *Provided, however,* That nothing herein contained shall prevent the city council or board of trustee from ordering, by two-thirds vote, the repair or restoration of any improvement, the necessity of which is caused by any casualty or accident happening after such annual appro-

priation is made. The city council or board of trustee may, by a like vote, order the mayor, chairman of the board of trustees and finance committee to borrow a sufficient sum to provide for the expense necessary to be incurred in making any repairs or restoration of improvements, the necessity of which has arisen as is last above mentioned, for a space of time not exceeding the close of the next fiscal year, which sum, and the interest, shall be added to the amount authorized to be raised in the next general tax levy, and embraced therein. Should any judgment be obtained against the corporation, the mayor or the board of trustees and finance committee under the sanction of the city council or board of trustees may borrow a sufficient amount to pay the same, for a space of time not exceeding the close of the next fiscal year, which sum and interest shall, in like manner be added to the amount authorized to be raised in the general tax levy of the next year and embraced therein.

SEC. 93. No contract shall be hereafter made by the city council or board of trustees, or any committee or member thereof; and no expense shall be incurred by any of the officers or departments of the corporation, whether the object of the expenditure shall have been ordered by the city council or board of trustees or not, unless an appropriation shall have been previously made concerning such expense, except as herein otherwise expressly provided.

SEC. 94. All money received on special assessments shall be held by the treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and said money shall be used for no other purpose whatever, unless to reimburse such corporation for money expended for such improvement.

City and Village Plats.

SEC. 95. Every original owner or proprietor of any tract or parcel of land, who has heretofore subdivided, or shall hereafter subdivide the same into three or more parts for the purpose of laying out any city or village or any addition thereto, or any part thereof, or suburban lots, shall cause a plat with such subdivision, with references to known or permanent monuments, to be made, which shall accurately describe all the subdivisions of such tract or parcel of land, numbering the same by progressive numbers, and giving the dimensions and length and breadth thereof, and the breadth and the courses of all streets as established therein. Descriptions of lots or parcels of land in such subdivisions, according to the number and designation thereof on said plat contained, in conveyances or for the purposes of taxation, shall be deemed good and valid for all intents and purposes. The duty to file for record a plat as provided herein, shall attach as a covenant of warranty in all conveyances hereafter made of any part or parcel of such subdivision by the original owner or proprietor against any and all assessments, costs and damages paid, lost or incurred by any grantee or person claiming under him in consequence of the omission on the part of said owner or proprietors to file such plat.

SEC. 96. Every such plat shall contain a statement to the effect that the above or foregoing subdivision of (here insert a correct description of the land or parcel subdivided), as appears in this plat, is with the free consent and in accordance with the desire of the undersigned owners and proprietors, and shall be duly acknowledged before some officer authorized to take the acknowledgment of deeds; and when thus

executed and acknowledged, said plat shall be filed for record and recorded in the office of the recorder of the proper county.

SEC. 97. The acknowledgment and recording of such plat is equivalent to a deed in fee simple of such portion of the premises platted as is on such plat set apart for streets or other public use; or as is thereon dedicated to charitable, religious, or educational purposes.

SEC. 98. Streets and alleys laid out in any addition to any city or village shall be continuous with and correspond in directions and width to the streets and alleys of the city or village to which they are an addition.

SEC. 99. Any such plat may be vacated by the proprietors thereof at any time before the sale of any lots therein, by a written instrument declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same office with the plat to be vacated; and the execution and recording of such writing shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, commons and public grounds laid out or described in such plat, and in cases where any lots have been sold the plat may be vacated, as herein provided, by all the owners of lots in such plat joining in the execution of the writing aforesaid.

SEC. 100. Any part of a plat may be vacated under the provisions and subject to the conditions of this chapter; *Provided*, Such vacating does not abridge or destroy any of the rights and privileges of other proprietors in said plat; and *Provided, further*, That nothing contained in this section shall authorize the closing or obstruction of any public highways laid out according to law.

SEC. 101. When any part of a plat shall be vacated as aforesaid, the proprietors of the lots so vacated may enclose the street, alleys and public grounds adjoining said lots in equal proportions.

SEC. 102. The county recorder in whose office the plats aforesaid are recorded, shall write in plain, legible letters, across that part of said plat so vacated, the word "vacated," and also make a reference on the same to the volume and page in which the said instrument of vacation is recorded.

SEC. 103. The owner of any lots in a plat so vacated may cause the same and a proportionate part of adjacent streets and public grounds to be platted and numbered by the county surveyor; and when such plat is acknowledged by such owner, and is recorded in the recorder's office of the county, such lots may be conveyed and assessed by the numbers given them on such plats.

SEC. 104. Whenever the original owner or proprietor of any subdivision of land, as contemplated in section 97 of this chapter have sold or conveyed any part thereof, or invested the public with any right therein, and have failed and neglected to execute and file for record a plat as provided in section 97 of this chapter, the county recorder shall notify some or all of such owners and proprietors by mail or otherwise, and demand an execution of such plat as provided; and if such owners or proprietors, whether notified or not, fail and neglect to execute and file for record said plat for thirty days after the issuance of such notice, the clerk shall cause to be made the plat of such subdivision, and any surveying necessary therefor. Said plat shall be signed and acknowledged by the recorder, who shall certify that he executed it by reason of the failure of the owners or pro-

prietors named to do so, and filed for record; and, when so filed for record, shall have the same effect for all purposes as if executed, acknowledged and recorded, by the owners or proprietors themselves. A correct statement of the costs and expenses of such plat, surveying and recording, verified by oath, shall be by the recorder laid before the first session of the county board, who shall allow the same, and order the same to be paid out of the county treasury, and who shall at the same time, assess the same amount pro rata upon all several subdivisions of said tract, lot, or parcel so subdivided; and said assessment shall be collected with, and in like manner as the general taxes, and shall go to the general county fund; or said board may direct suit to be brought in the name of the county, before any court having jurisdiction, to recover of the said original owners or proprietors, or either of them, said cost and expense of procuring and recording said plat.

SEC. 105. Whenever any congressional subdivision of land of forty acres or less, or any lot or subdivision is owned by two or more persons in severalty, and the description of one or more of the different parts or parcels thereof, cannot, in the judgment of the county tax collector be made sufficiently certain and accurate for the purposes of assessment and taxation without noting the metes and bounds of the same, the tax collector shall cause and require to be made and recorded a plat of such tracts on lot of land with its several subdivisions in accordance with the provisions of this chapter; and he shall proceed in such cases according to the provisions of section 106 and all the provisions, of said section in relation to plats of cities and villages, and so forth, shall govern as to the tracts and parcels of land in this section referred to.

SEC. 106. None of the provisions of this chapter shall be construed to require replatting in any case where plats have been made and recorded in pursuance of any law heretofore in force; and all plats heretofore filed for record, and not subsequently vacated, are hereby declared valid, notwithstanding, irregularities and omissions in manner of form of acknowledgment or certificate; but the provisions of this section shall not affect any action or proceeding now pending.

SEC. 107. Any person who shall dispose of or offer for sale or lease any lots in any town, or addition to any town or city, until the plat thereof has been duly acknowledged and recorded as provided in this chapter, shall forfeit and pay fifty dollars for each lot and part of a lot sold or disposed of, leased or offered for sale.

SEC. 108. Prior to the next general election to be held in all cities or towns of this State the present common council of such cities or towns shall divide such cities or towns into wards herein provided, and make all necessary and proper arrangements for the election of the officers of such city or town as herein provided for.

SEC. 109. All elections held in villages or cities as provided for in this Act, shall be conducted in manner and form as provided by the general election law of the State.

SEC. 110. All acts or parts of acts in conflict with this Act are hereby repealed.

SEC. 111. Whereas an emergency exists therefor this Act shall be in force and effect from and after its passage.

Approved on the 10th day of February, 1899.

H. B. NO. 96.

AN ACT

PREScribing THE MANNER OF ASSESSING TAXABLE PROPERTY, AMENDING SECTION 1425, OF
THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 1425 of the Revised Statutes of Idaho be amended to read as follows, to wit:

Section 1425: "All taxable property must be assessed at its full cash value. Land and improvements thereon must be assessed separately."

SEC. 2. All acts and parts of acts, so far as they are inconsistent with the provisions of this Act are hereby repealed.

SEC. 3. Whereas an emergency exists, therefor this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved on the 10th day of February, 1899.

H. B. NO. 97.

AN ACT

RELATING TO DEPOSITIONS AND PRESCRIBING THE MANNER IN WHICH THEY MAY BE TAKEN AND USED, AND REPEALING SECTIONS SIX THOUSAND AND FIFTY-NINE, SIX THOUSAND AND SIXTY, SIX THOUSAND AND SIXTY-ONE, SIX THOUSAND AND SIXTY-TWO, SIX THOUSAND AND SIXTY-THREE, SIX THOUSAND AND SIXTY-FOUR, SIX THOUSAND AND SIXTY-FIVE, SIX THOUSAND AND SIXTY-SIX, SIX THOUSAND AND SIXTY-SEVEN, SIX THOUSAND AND SIXTY-EIGHT, SIX THOUSAND AND SIXTY-NINE, SIX THOUSAND AND SEVENTY, OF THE REVISED STATUTES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Depositions of witnesses, taken within or without the State, may be taken according to the regulations hereinafter provided, before any judge, justice of the peace, notary public, mayor or recorder of a city, clerk of a court of record, or commissioner appointed by the court to take depositions; but depositions shall not be taken before any person or the kin of any person interested in the action.

SEC. 2. A party wishing to take depositions shall give notice to the adverse party, if there be only one person: if there be several, to any one of them who is a real party in interest, his agent or attorney. Such notice shall specify:

FIRST. The cause or matter in which the deposition is to be used.

SECOND. The court or tribunal in which the trial is to be had.

THIRD. The time and place of taking the deposition, and the names of the witnesses.

SEC. 3. The adverse party shall be allowed one day for each twenty miles required to be traveled from his usual place of abode to the place of taking the deposition, by the ordinary route of travel. If served on an attorney or agent, a reasonable time shall be allowed him to communicate the same to the party, not exceeding one day for each twenty miles.

SEC. 4. The notice may be served in the same manner, and by any person authorized to serve a subpoena for a witness. If neither the party nor his agent or attorney reside in the State, the notice may be filed in the clerk's office, and be published three weeks successively in the county in which the suit is pending and a copy thereof mailed to each party or his attorney at his last known address, and personal service without the State shall be equivalent to filing such notice with the clerk and publication as herein provided.

SEC. 5. In all actions, the court may order the taking of depositions, whenever deemed necessary to determine the rights of the parties or to expedite the trial of causes; and may if necessary for that purpose, order a continuance until the next term.

SEC. 6. In all actions, depositions may be taken by either party in vacation or term time; at any time after service of summons, without order of court therefor. They may be used in the trial of all issues, in any action in the following cases:

FIRST. When the witness does not reside in the county, or when he resides in a county adjoining and more than thirty miles from place of trial, or is absent from the State.

SECOND. When the deponent is so aged, infirm, or sick as not to be able to attend the court or place of trial, or is dead.

THIRD. When the depositions have been taken by agreement of parties, or by the order of the court trying the cause.

FOURTH. When the deponent is a State or county officer, or judge, or a practicing physician, or attorney-at-law, and the trial is to be had in any county in which the deponent does not reside. In either of the foregoing cases the attendance of the witness cannot be enforced.

FIFTH. When notice is given fixing the time of taking any deposition on a day in term time, the court, may if in session, or the judge thereof in vacation on notice given by the adverse party of the time and place of hearing the motion, fix another day for such taking, and the court on the hearing of such motion, may fix the time for such taking, from which there shall be no appeal.

SEC. 7. A witness is not obliged to attend for examination upon a deposition in any other county than that of his residence, but may consent to do so.

SEC. 8. No deposition shall be read in evidence on the trial of a cause, if at that time the witness is produced in court, unless the deposition has been taken by the agreement of the parties, or by the order of the court.

SEC. 9. The officer taking the deposition shall have power to summon and compel the attendance of witnesses. In case of the refusal of a witness to attend or testify, such fact shall be reported by the officer to any probate or district court of the county, or the judge thereof and such court or judge shall order such witness to attend and testify; and on the failure or refusal to obey such order, such witness shall be dealt with as for a contempt.

SEC. 10. The provisions of the last section shall extend to all officers and commissioners authorized to take depositions in this State to be read in the courts of other States or countries.

SEC. 11. The deponent shall first be sworn by the officer to testify to the truth, the whole truth, and nothing but the truth relating to the cause or matter for which the deposition is to be taken; and he shall then be examined by the party producing him, and then by the adverse party, and by the officer or parties afterwards if they see cause.

SEC. 12. The deposition shall be written down by the officer, or by the deponent, or by some disinterested person, in the presence and under the direction of the officer; and after the same has been carefully read to or by the deponent, it shall be subscribed by him.

SEC. 13. The officer shall annex his certificate to the deposition stating the following facts:

FIRST. That the deponent was sworn according to law.

SECOND. By whom the deposition was written, and if written by the deponent or some disinterested person; that it was written in the presence and under the direction of the officer.

THIRD. Whether or not the adverse party attended.

FOURTH. The time and place of taking the deposition, and the hours between which the same was taken. And the officer shall sign and attest the certificate, and seal the same, if he have a seal of office.

SEC. 14. The officer taking the deposition shall seal up the same in a secure envelope, and direct the same to the clerk of the court in which the action is pending indorsing upon the envelope the names of the parties and of the witnesses whose depositions are inclosed.

SEC. 15. When a deposition is offered to be read in evidence, it must appear to the satisfaction of the court that the cause for taking and reading it still exists.

SEC. 16. When a deposition is to be taken within or without the State, but within the United States, no commission shall be necessary for taking the deposition. When taken out of the United States, the clerk shall upon the request of the party taking the deposition issue a commission to the officer or commissioner designated to take the deposition. No order of the court or affidavit shall be necessary to authorize the issuing of the commission.

SEC. 17. When the commission contains the name of the officer before whom the deposition is to be taken his attestation, officially certifying the same, shall be sufficient; but if the commission do not specify the name of the officer, and he have no official seal, his certificate shall be authenticated by the certificate and seal of the clerk or prothonotary of any court of record of the county in which the officer exercises the duties of his office.

SEC. 18. Every deposition intended to be read in evidence must be filed in the court at least one day before the time at which the cause in which the deposition is to be used stands on the docket for trial; or, if filed afterward and claimed to be used on the trial, the adverse party shall be entitled to a continuance, at the cost of the party filing the deposition upon showing good cause by affidavit.

SEC. 19. Depositions, after being filed, may be published by the clerk, at the request of either party after giving the other his agent or attorney reasonable notice of the time of publication or they may be published by order of the court on motion of either party.

SEC. 20. Objections to the competency of a deponent, or to the propriety of any question proposed to him or answers given by him, may be made at the time of taking his deposition, or in court whether made at the taking of the deposition or not.

SEC. 21. All objections to the validity of any deposition or its admissibility in evidence, shall be made before entering upon the trial, not afterward. But any deposition after the commencement of trial may be suppressed, if any matter which is not disclosed in the deposition appears which is sufficient to authorize such suppression.

SEC. 22. When an action has been dismissed and another action has been commenced for the same cause the deposition taken in the first action may be used in the second or any other action between the parties, or their assignees or representatives for the same cause; but it must appear

that the depositions have been duly filed in the court where the previous cause was pending, and have remained on file from the time the action was dismissed until the time at which it was proposed to use them.

SEC. 23. Whenever any person shall make affidavit before any probate or district court or judge thereof, or clerk of the court, that such person expects to be made a party in any action thereafter to be commenced, and that the testimony of the affiant, or any other person, whether residing within or without the State to be named in the affidavit, is material and necessary to the prosecution or defense thereof, the court or officer before whom the affidavit is made shall order notice as provided by section two of this Act to be given to the party expected to be adverse to the applicant, or his attorney that on the day and at the place in such notice to be expressed, the witness will be examined before such officer as shall be specified in the order.

SEC. 24. Upon proof that the notice has been given, either by personal service or by advertisement as provided by section four of this Act being made to the officer authorized to take the testimony he shall proceed to take and certify, and seal up, and return the deposition according to the rules provided for other depositions in this Act.

SEC. 25. Every deposition, so taken and certified shall, in due course be filed in the office of the clerk of the proper court of the county where the subject matter of such expected suit may be situated. The clerk shall file such deposition, and it shall remain sealed until after commencement of such expected action and until published as provided by section twenty of this Act.

SEC. 26. Any deposition which has heretofore been taken and filed for the purpose of perpetuating in pursuance of any existing or former statutes of this State, as well as any deposition which may hereafter be taken and filed to perpetuate testimony may, at any time, either before or after the commencement of the action in anticipation of which such deposition may have been taken be published by order of the court in the office of whose clerk the same may be filed, on the motion of any person or party interested in the preservation of the testimony and such deposition with all the accompanying affidavits, orders, notices, and other documents shall be directed by such court to be entered of record in the order book of such court, at the cost of the party making such motion and such record shall contain a statement or recital of the date of the filing of such deposition.

SEC. 27. The record of any deposition recorded under the provisions of the last section, and copies of such record, duly certified, may be used as evidence whenever and wherever the original deposition might be used.

SEC. 28. Upon the proof of death, insanity, or absence from the State of such witness, or distant more than thirty miles from the place of trial or inability by reason of age or infirmity to attend, the deposition, or a certified copy thereof by the clerk of the court where the same is filed, shall be admitted as evidence in any court in this State, in any cause between the parties named in the affidavit or in any cause between persons claiming under either of said parties, and shall have like effect as if the witness had been personally present, and given oral testimony therein, saving the right of exception in all cases on account of the incompetency of the witness or any part of the testimony contained in the deposition.

SEC. 29. An unimportant deviation from any direction relative to tak-

ing depositions shall not cause any deposition to be excluded where no substantial prejudice would be done to the opposite party.

SEC. 30. When a party shall, in response to a notice to take depositions orally, attend at the time and place, by himself or attorney and the deposition shall not be taken, he shall upon notice and affidavit of the facts have judgment against the party at whose instance the notice was given, for two dollars per day for each day he may attend under the notice and six cents per mile for the distance necessarily traveled, in going to and returning from the place fixed for taking such depositions unless it shall be shown that the failure to take such depositions did not result from the negligence or fault of the party giving the notice, or had previously notified the opposite party that he could not attend such taking.

SEC. 31. The deposition may be taken upon written interrogatories as follows: The party desiring to take such deposition shall serve upon the opposite party notice of his intention together with a copy of the interrogatories which he intends to propound and file such notice and interrogatories with the clerk. The opposite party shall file with the clerk within five days thereafter such cross-interrogatories as he desires to propound and re-examine interrogatories served and filed within five days thereafter. The clerk shall then issue to some officer, by him to be selected, authorized to take depositions, a commission with the interrogatories, cross-interrogatories, and re-examining interrogatories annexed thereto, requiring him to cause the witness to come before him at such time and place as he may appoint, and to faithfully take his deposition, upon the questions annexed to the commission, and thereupon to make return to the court of his doings under such commission without delay. The officer shall first swear or affirm the witness that he will make a true, full and perfect answer to the interrogatories to be propounded to him; and then he shall propound the annexed to the commission in their order and accurately write the answers of the witness to such. He shall then read carefully to the witness such interrogatories and his answers thereto, and correct the answers as the witness may desire and then the witness shall sign such deposition. The officer shall annex to the deposition his certificate, showing specifically a fulfillment of each of the requirements of this section; and shall then enclose the deposition with the commission, interrogatories and answers securely sealed, and transmit the same addressed to the clerk of the court in which the suit is pending with the title of the cause endorsed thereon; *Provided, however,* That additional oral testimony may be adduced by either party, upon not less than three days notice to the opposite party, and the commission and officer's certificate shall be modified accordingly.

SEC. 32. That sections 6059, 6060, 6061, 6062, 6063, 6064, 6065, 6066, 6067, 6068, 6069, 6070 of the Revised Statute of Idaho and all acts and parts of acts inconsistent with this Act are hereby repealed.

SEC. 33. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 10th day of February, 1899.

H. B. NO. 98.

AN ACT

PROVIDING FOR THE APPOINTMENT OF A DEPUTY STATE TREASURER.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The State Treasurer may appoint a Deputy State Treasurer.

SEC. 2. Such deputy shall take the oath required of his principal, and may perform all the official duties of such principal, being subject to the same regulations and penalties.

SEC. 3. Such principal shall be responsible for all the official acts of such deputy.

SEC. 4. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 10th day of February, 1899.

H. B. NO. 99.

AN ACT

EXEMPTING CERTAIN PROPERTY FROM TAXATION. AMENDING SECTION 1401 OF THE REVISED STATUTES OF IDAHO, AND ADDING TO CHAPTER I OF TITLE X OF THE POLITICAL CODE OF IDAHO SECTION 1402.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1401 of the Revised Statutes of Idaho be amended to read as follows:

Section 1401. The following property is exempt from taxation:

FIRST. All property used exclusively for school purposes, and such as may belong to the United States, this State, or to any county or municipal corporation or school district within this State:

SECOND. Churches, chapels and other buildings, with the lots of ground appurtenant thereto and used therewith, belonging to any church organization or society and used for religious worship from which no rent is derived, with their furniture and equipments; and hospitals used for benevolent purposes with the lots of ground appurtenant thereto and used therewith from which no rent is derived, with their furniture and equipments; also public cemeteries;

THIRD. Buildings or parts of buildings owned and used by the order of Masons or Odd Fellows, or by any other benevolent or charitable society exclusively for the purpose of its order, and their furniture and equipments.

FOURTH. The property of resident widows and orphan children not to exceed the amount of one thousand dollars, to any one family, when their total assessment is less than five thousand dollars;

FIFTH. Growing crops;

SIXTH. Capital stock of corporations where the property of the corporation has been assessed;

SEVENTH. Public and private libraries;

EIGHTH. Tools of a mechanic, farmer, miner, prospector or householder or the farming implements and machinery of farmers, not exceeding in value two hundred dollars;

NINTH. Possessory rights to public lands;

TENTH. All dues and credits secured by mortgage, trust deed or other lien;

ELEVENTH. Mining claims; but machinery, property and improvements upon or appurtenant to mining claims shall not be exempt.

SEC. 2. That chapter I of title X of the Political Code of Idaho be amended by adding thereto section 1402 to read as follows:

Section 1402. The following property is exempt from taxation: All irrigating canals and ditches and water rights appurtenant thereto, when the owner or owners of said irrigating canals and ditches use the water thereof exclusively upon land or lands owned by him her or them; *Provided*, In case any water be sold or rented from any such canal or ditch, then, in that event, such canal or ditch shall be taxed to the extent of such sale or rental.

SEC. 2. An emergency existing, therefore this Act shall be in force and take effect from and after its passage.

SEC. 3. All acts and parts of acts in conflict with the provisions of this Act are hereby repealed.

Approved on the 10th day of February, 1899.

H. B. NO. 100.

AN ACT

MAKING IT UNLAWFUL FOR EMPLOYERS TO ENTER INTO AGREEMENTS WITH THEIR EMPLOYEES, OR PERSONS ABOUT TO ENTER THEIR EMPLOYMENT, NOT TO BECOME OR CONTINUE AS MEMBERS OF LABOR ORGANIZATIONS; AND PRESCRIBING A PENALTY THEREFOR.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be unlawful for any person, firm, or corporation to make or enter into any agreement, either oral, or in writing, by the terms of which any employee of such person, firm or corporation, or any person about to enter the employ of such person, firm or corporation, as a condition for continuing or obtaining such employment, shall promise or agree not to become or continue a member of a labor organization.

SEC. 2. Any person or persons or corporation violating the provisions, of section 1 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than fifty or more than three hundred dollars or be imprisoned in the county jail for not more than six months, or by both such fine and imprisonment.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 10th day of February, 1899.

H. B. NO. 101.

AN ACT

CREATING THE OFFICE OF INSPECTOR OF MINES; FIXING HIS DUTIES AND POWERS; PROVIDING FOR THE APPOINTMENT OF DEPUTIES AND FIXING THE COMPENSATION OF BOTH; REQUIRING CERTAIN REPORTS AND NOTICES OF ACCIDENTS TO BE MADE TO SAID INSPECTOR; AND DEFINING THE DUTIES OF THE ATTORNEY GENERAL IN RELATION TO SUITS INSTITUTED BY THE INSPECTOR OF MINES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The office of inspector of mines for the State of Idaho is hereby created.

SEC. 2. The Inspector of Mines shall receive as full compensation for his services a salary of twelve hundred dollars per annum, and ten cents a mile for each mile actually traveled in the discharge of his official duties, and all necessary expenses for clerk hire, postage, stationery, printing, and the compensation of deputies, *Provided*, The total amount of such mileage and expense shall not exceed the sum of two thousand dollars for any one year; such compensation to be paid as the salary and

fees of other State officers are paid. He shall hold his office for the term of two years, or until his successor is appointed and qualified, before entering upon the discharge of his duties as Inspector of Mines he shall file an official bond in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office, in form and manner as are other official bonds of State officers.

SEC. 3. The Inspector of Mines shall not at the time of his appointment or any time during his term of office, be an officer, director, or employee in or of any mining corporation in this State, or in, or of any milling corporation in the State engaged in the business of smelting or reducing ores; and such Inspector shall devote his whole time to the duties of his office and shall take and subscribe to the following oath:

State of Idaho }
County of..... } ss.

I of.....county do solemnly swear that I will perform each and every duty required of me as Inspector of Mines for the State of Idaho; that I will at all times while acting in my official capacity fulfill the duties of such office according to law and to the best of my skill and understanding that I will never at any time while holding the office of Inspector of Mines disclose to any one, directly or indirectly, under any circumstances, any information relative to ore bodies, chutes, or deposits of ore, or the location, course or character, of underground workings or give my opinion founded on any examination made in the performance of my official duties relative to the value of any mine or mining property, unless by permission of the person or persons in charge of the same, to all of which I pledge my sacred honor. So help me God.

Nothing in said oath however, shall be construed to prevent such Mining Inspector from making full and complete statistical reports as required by law.

SEC. 4. It shall be the duty of the Inspector of Mines, at least once each year, to visit in person each mining county in the State of Idaho and examine all such mines therein as, in his judgment, may require examination for the purpose of determining the condition of such mines as to safety, and to collect information and statistics relative to mines and mining and the mineral resources of the State, and to collect, arrange and classify mineral and geological specimens found in this State and to forward the same to the State School of Mines.

SEC. 5. Said Inspector shall have full power and authority, at all reasonable hours, to enter and examine any and all mines in this State, and shall have the right to enter into any and all mine stopes, levels, winzes, tunnels, shafts, drifts, cross-cuts, workings and machinery for the purpose of such examination; and the owner, lessor, lessee, agent, manager or other person in charge of such mine or mines, shall render, the Inspector such assistance as may be required by the Inspector to enable him to make a full, thorough and complete examination of each and every part of such mine or mines, and whenever, as a result of the examination of any mine (whether such examination is made in consequence of a complaint, as hereinafter provided, or otherwise) the inspector shall find the same to be in an unsafe condition, he shall at once serve, or cause to be served, a written notice upon the owner, lessor, lessee, agent, manager or other person in charge of such mine, stating in detail in what particular or particulars the mine is dangerous or insecure, and shall require all neces-

sary changes to be made, without delay, for the purpose of making said mine safe for the employees therein. Upon the neglect or refusal of any owner, lessor, lessee, agent, manager or other person in charge, so notified to comply with the requirements stated in such notice so served such owner, lessor, lessee, agent, manager or other person in charge, of such mine shall be deemed guilty of a misdemeanor, and is punishable by a fine of not more than five hundred dollars, and each day's continuance of such neglect or refusal shall be a separate offense, and in case of any criminal or civil proceeding at law against the party or parties so notified, on account of the loss of life, or bodily injury sustained by any employee subsequent to the service of such notice, and in consequence of a neglect or refusal to obey the Inspector's requirement, a certified copy of the notice served by the Inspector shall be prima facie evidence of the culpable negligence of the party or parties so notified.

SEC. 6. The Inspector of mines shall be provided with a properly furnished office, at the state house in Boise City, Idaho, in which he shall carefully keep a complete record of all mines examined, showing the date of examination, the condition in which the mines were found, the manner and method of working, the extent to which the laws are obeyed, and what recommendations, if any were, ordered by the Inspector.

It is hereby made the duty of the owner, lessor, lessee, agent, manager or other person in charge of each and every mine, of whatever kind or character, within the State to forward to the Inspector of Mines at his office, not later than the first day of June in each year, a detailed report showing the character of the mine, the number of men then employed and the estimated maximum number of men to be employed therein during the ensuing year, the method of working such mine and the general condition thereof, and such owner, lessor, lessee, agent, manager or other person in charge of any mine within the State, must furnish whatever information relative to such mine as the Inspector of Mines may, from time to time *require* for his guidance in the proper discharge of his official duties.

SEC. 7. Whenever the Inspector of Mines shall receive a formal complaint in writing, signed by three or more person, setting forth that the mine in which they are employed is dangerous in any respect, he shall, in person, visit and examine such mine: *Provided*, Every such formal complaint shall in all cases specifically set forth the nature of the danger existing at the mine and shall describe with as much certainty as is possible, how much danger, apparent or real, renders such mine dangerous, and shall set forth the time when such danger was first observed, and shall distinctly set forth whether, or not, any notice of such defect or danger has been given by the complainants or any one else to their knowledge, to the superintendent or other person in charge of such mine, and if no such complaint has been made to such superintendent or other person in person in charge the reason why it has not been made: and *Provided, further*, That all complaints shall be duly verified by the parties complaining, before some officer authorized by law to administer oaths. After such complaint shall have been received by the Inspector of Mines, it shall be the duty of such Inspector to serve a certified copy thereof, but without the names of the complainants, upon the owner, lessor, lessee, agent, manager, or other person in charge, and, as soon as possible after receiving such complaint to visit and examine such mine, and if from such examination he shall find such complaint to be just, he shall give notice in writing of the danger ex-

isting to the owner, lessor, lessee, agent, manager, or other person in charge thereof, and in such notice may, in his discretion, order such mine or workings in which such danger exists, closed until such danger has been removed. The names of complainants complaining as in this section provided, shall not, under any circumstances, be divulged to any person by said Inspector except such action be necessary in the administration of justice in the courts of the State.

SEC. 8. And it shall be the duty of the Inspector of Mines upon the neglect or refusal of any owner, lessor, lessee, agent, manager, or other person, in charge of any mine or working, notified of the unsafe or dangerous condition of his mine, promptly to comply with the requirements of the notice served upon him, to at once notify the Attorney General of such neglect or refusal, and the Attorney General, must thereupon immediately commence action in the name of the State against the party so notified for the recovery of the penalty mentioned in section 5, in any court of competent jurisdiction, and the amount so recovered shall be paid into the general school fund of the State and constitute a part thereof.

SEC. 9. With the consent and approval of the Governor, the Inspector of Mines may appoint such deputy inspectors as in his judgment may be necessary. Such deputy inspectors shall be allowed as full compensation for all services five dollars per day for each day actually engaged in the performance of their duties.

SEC. 10. Whenever a serious or fatal accident shall occur in any mine in the State of Idaho, it shall be the duty of the owner, lessor, lessee, agent, manager or other person in charge thereof, immediately and by the quickest means, to notify the Inspector of Mines or his deputy, as may be most convenient, of such accident; and upon receiving such notice the Inspector or his deputy, or both, shall at once repair to the place of the accident and investigate fully the cause of such accident; and the Inspector or his deputy shall be present at any coroner's inquest held over the remains of any person or persons killed in any such accident, and shall have power at such inquest to examine and cross-examine witnesses, and may have process to compel the attendance of necessary witnesses at such inquest. If the Inspector or deputy inspector cannot be immediately present in case of a fatal or serious accident occurring, it shall be the duty of the owner, lessor, lessee, agent, manager or other person in charge of the mine in which such accident has occurred, to have statements made and verified by those witnessing such accident; in case of no person being present at the time of the accident, then the statement of those first present thereafter shall be taken, which statement shall be verified, and such verified statements shall be placed in the hands of the Inspector or deputy inspector, upon the demand of such officer. Whenever any deputy inspector is present at any coroner's inquest and assists in the examination, he shall at the conclusion thereof at once prepare and forward to the Inspector a full and detailed report of the accident, giving all information obtainable regarding the same.

SEC. 11. The duties of deputy inspectors shall only be such as are indicated in section 10 of this Act; that is, to attend and act either with or in place of the Inspector of Mines in cases of accident, at the scene of such accident, and at coroner's inquests, and to make reports.

SEC. 12. The Inspector of Mines shall on the first Monday of December of each year, file with the Governor of the State a printed report giving:

FIRST. A list of all accidents that have occurred during the year, the nature and cause of the same, together with the persons killed and injured;

SECOND. The number of mines visited, or examined during the year; the number of mines in operation; the number of mines idle; the number of men employed; the wages paid, and the nationality of employees;

THIRD. The name and location of each mine in the State, which has been examined and from which the Inspector has received a report as provided in section 6 of this Act, and all data possible in regard to the manner of working the same; whether by shaft, tunnel, incline or otherwise; the condition of the hoisting machinery, boilers, whims, engines, cars, buckets, ropes and chains, used in the mines; also the appliances used for the extinguishing of fires; the manner and methods of working and timbering the shafts, drifts, inclines, stopes, winzes, tunnels and up-raises through which persons pass to and fro while engaged in their daily labor; the character of the exits from the mine, the methods of ventilation, and the system of signals used in the mine;

FOURTH. The number and character of notices served, together with suggestions and recommendations made; the manner in which such suggestions and recommendations were complied with;

FIFTH. The number of complaints received and actions therein;

SIXTH. The number of prosecutions for neglect or refusal to comply with notices;

SEVENTH. A summary of the reports received from mine owners and deputy inspectors;

EIGHTH. A full statement containing all available statistical and other information calculated to exhibit the mineral resources of the State, and to promote the development of the same;

NINTH. Generally, such other information and suggestions as may be deemed advisable.

SEC. 13. At the next general election held in this State and biennially thereafter, the office of Inspector of Mines, mentioned in this Act shall be filled by election by the qualified electors of the State of Idaho as other State officers.

SEC. 14. An emergency existing therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 102.

AN ACT

PROVIDING FOR THE LIGHTING OF THE CITY OF LEWISTON, AND FOR THE LEVYING AND COLLECTING OF A TAX THEREFOR; AMENDING SECTIONS 6, 81, 82 AND 83, OF AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON, APPROVED FEB. 9, 1891.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That sections 6-81-82 and 83, of an act to amend the charter of the city of Lewiston approved February 9, 1881, be and are hereby amended to read as follows—

Section 6. To provide for the lighting of the streets, public buildings and grounds and for the erection or construction of such works as may be necessary or convenient therefor and to levy and collect a special tax for such purpose, not exceeding six mills on each one dollar of taxable property within the limits of the city.

Section 81. The council must thereafter order the city clerk to deliver said delinquent tax roll to the city attorney with a warrant thereon requiring said attorney to collect said taxes within 90 days after delinquent roll is delivered to him.

Section 82. The city attorney shall proceed to collect such taxes by notice and sale, according to the laws and regulations for collecting State and county taxes, together with interest and costs and ten per cent additional, for attorney's fees.

Section 83. The warrant given for such collection, together with the delinquent roll shall be published for three weeks in some newspaper of the city and thereafter shall have the force and effect of an execution which may be levied upon any property belonging to the person owing the tax.

SEC. 2. An emergency existing this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 103.

AN ACT

TO ESTABLISH A STATE REFORM SCHOOL AT MOUNTAIN HOME, IN THE COUNTY OF ELMORE,
AND TO CREATE A BOARD OF TRUSTEES FOR THE MANAGEMENT THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That a State reform school for the State of Idaho is hereby established in the town of Mountain Home, County of Elmore, State of Idaho, to be called the State Reform School, the purpose of which shall be the care and reformation of incorrigible youth, and the detention of juvenile offenders, against the law whom the court, before which the offenders are convicted, may deem susceptible of reformation; *Provided*, That the owners of College Park addition to the said town of Mountain Home, shall, prior, to the first day of May, 1893, donate to the Board of Trustee hereinafter named, as a site for the use of said school, ten acres of land within said town of Mountain Home, known and described as College Park addition to Mountain Home, and shall convey to the same by a good and perfect title, in fee simple, to said board of trustees, who are hereby authorized and empowered to receive and hold the same and the title thereto, in trust for the use and benefit of the said reform school.

SEC. 2. The said State Reform School shall be under the direction of a Board of Trustees to be known as, "the Board of Trustees of the State Reform School." Their term of office shall commence on the first day of May, 1893, and, every alternate year thereafter. The said Board of Trustees shall be appointed by the Governor, and shall consist of six members. They shall at the first meeting determine their respective terms of office, which shall be two for two years, two for four years, and two for six years, and every two years thereafter their successors shall, as the term of office of the classes shall expire, be appointed for the term of six years, by the Governor of the State of Idaho, by and with the advice and consent of the Senate. Before entering upon the duties of his office, each of said trustees shall take and subscribe an oath or affirmation before some person duly authorized to administer the same, that he will support the Constitution of the United States and of the State of Idaho, and will faithfully and impartially discharge the duties of the office of

trustee of the State Reform School, which oath or affirmation shall be filed in the office of Secretary of State.

SEC. 3. A majority of the said Board shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. Every vote and official act of said Board shall be entered of record. Said Board shall have an official seal which shall be judicially noticed. Said Board may sue and be sued. No vacancy in said Board shall impair the right of the remaining members thereof to exercise all the powers of said Board, and no member of said Board shall be interested in any contract or participate in any proceedings in which he has a pecuniary interest. At their first meeting, and annually thereafter, the said Board shall elect, from their number, a president and a secretary. Said secretary shall keep an exact and detailed record of the doings of the Board, and an itemized account of all expenditures by said Board, and the said Board shall adopt all necessary rules and regulations for the government of said reform school not inconsistent with law.

SEC. 4. The said Board of Trustees are hereby authorized and it is made their duty to take and at all times have the general supervision and control of all buildings and property belonging to said reform school, and to have general charge and control of the construction of all buildings to be built.

SEC. 5. All funds appropriated for the use and benefit of said reform school from every source including the available proceeds of the sale of fifty thousand acres out of the one hundred and fifty thousand acres of land granted to the State by the general government for "other State, charitable, penal and reformatory institutions," shall be under the direction and control of the said Board of Trustees subject to the provisions herein contained. The treasurer of the Board of Trustees shall pay out of such funds all orders or drafts for money to be expended under the provisions of this Act. Such orders or drafts shall be drawn by the State Auditor on certificates of the secretary countersigned by the president of the Board of Trustees and approved by the Board of Examiners. No such certificate shall be given except on accounts audited and allowed by the said Board of Trustees.

SEC. 6. The said Board of Trustees shall hold two regular meetings annually at the town of Mountain Home. Special meetings may be called by the president when necessary. Ten days notice of such special meetings must be given to each member.

SEC. 7. The Board of Trustees shall have power to elect a superintendent and all necessary subordinate officers and teachers for said reform school and to fix the salaries of the same and prescribe their duties. They shall have power to remove any officer by them appointed.

SEC. 8. It shall be the duty of the Board of Trustees to prescribe the system of government and courses of instruction for all persons admitted or committed to said reform school and to care for the inmates thereof in such manner as will best conduce to the moral welfare of such inmates and particularly to aid in securing places and positions where all youths discharged from said reform school may obtain employment and receive encouragement in well doing.

SEC. 9. The Board of Trustees shall make such rules and regulations for the admission of pupils to said reform school as they may deem neces-

sary and proper. No person shall be admitted or committed to said reform school who is over the age of eighteen years.

SEC. 10. Said Board of Trustees shall especially endeavor to cause all inmates of said reform school to adopt and learn some useful trade or occupation, and shall provide said reform school with suitable mechanical appliances to accomplish this end.

SEC. 11. Actual and necessary expenses incurred by member of the said Board of Trustees in carrying out the provisions of this Act shall be paid as other claims against said reform school.

SEC. 12. It shall be the duty, of the Governor to fill by appointment all vacancies that may occur in the Board of Trustees.

SEC. 13. The president and secretary of the said Board on the first day of January and July of each year and also twenty days before each regular session of the Legislature shall transmit to the Governor a full report of their doings the condition of said reform school and the expenditures for the preceding six months, and shall make such recommendations as they may deem proper for the benefit of said reform school.

SEC. 14. There is hereby appropriated the sum of ten thousand dollars out of the available proceeds of the sales of land described in section 5 of this Act for the purpose of carrying out the provisions of this Act.

SEC. 15. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 15th day of February, 1899.

H. B. NO. 104.

AN ACT

PRESCRIBING THE RATE OF INTEREST ON STATE WARRANTS; AMENDING SECTION 238 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 238 of the Revised Statutes of Idaho be and the same is hereby amended so as to read as follows:

Section 238. It is the duty of the State Treasurer to keep a register of the State warrants presented to him and not paid for want of funds, in the order of their presentation and to write across the back of the same "presented and not paid for want of funds," said endorsement to be dated and signed by the Treasurer, and said warrants draw interest at the rate of seven per cent per annum, from the date of presentation until paid.

SEC. 2. Section 238 of the Revised Statutes of Idaho and all acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 105.

AN ACT

TO ESTABLISH A STATE NORMAL SCHOOL AT ALBION IN THE COUNTY OF CASSIA, IDAHO, AND TO CREATE A BOARD OF TRUSTEES FOR THE MANAGEMENT THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That a normal school for the State of Idaho is hereby established at or near the town of Albion, in the County of Cassia, to be called the Albion State Normal School, the purpose of which will be for training and educating teachers in the art of instruction and governing

in the public schools of the State, and of teaching the various branches that pertain to a good common school education. *Provided*, That J. E. Miller of the said town of Albion, shall, prior to the first day of May, eighteen hundred and ninety-three, donate to the board of trustees hereinafter named, as a site for the use of the said Albion State Normal School, five acres of lot 3, section 6, township 12 s., r. 25 e., together with a permanent water right therefor and shall convey the same by a good and perfect title in fee simple to said board of trustees who are hereby authorized and empowered to receive and hold the same, and the title thereto, in trust and for the use of the said Albion State Normal School.

SEC. 2. That a non-partisan board of trustees, to be known as "The Board of Trustees of the Albion State Normal School" consisting of five members, no more than three of whom shall be of the same political party, is hereby created for the management and control of the Albion State Normal School. Said trustees shall be appointed by the Governor by, and with the advice, and consent of the Senate, for a term of two years, and, until their successors are appointed and qualified, and before entering upon the duties of their office, each of said trustees, shall take and subscribe an oath or affirmation that he will support the Constitution of the United States and the Constitution and laws of the State of Idaho, and will faithfully and impartially discharge the duties of said office, which oath or affirmation shall be filed in the office of Secretary of State.

SEC. 3. All the rights, powers, duties, and title to real estate or personal property belonging to or vested in said Albion State Normal School are hereby vested in the trustees of said school herein provided for.

SEC. 4. The said board of trustees may conduct its proceedings in such manner as will best conduce to the proper dispatch of business.

A majority of the board of trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. No member of said board of trustees shall participate in any proceeding in which he has any pecuniary interest. Every vote and official act of said board of trustees shall be entered of record. Said board of trustees shall have an official seal, which shall be judiciously noticed. Said board of trustees may sue and be sued. No vacancy in the board of trustees shall impair the right of the remaining trustees to exercise all the powers of the said board of trustees. At their first meeting, and annually thereafter, the said board of trustees shall elect from their numbers a president and secretary. The State Treasurer shall be ex-officio treasurer of said board of trustees. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and an itemized account of all expenditures, authorized by said board.

SEC. 5. The said board of trustees are hereby authorized, and it is made their duty, to take and at all times to have general supervision and control of all buildings and property appertaining to said Normal School, and to have general charge and control of the construction of all buildings to be built. They shall have power to let contracts for building and completion of any such buildings, and the entire supervision of their construction.

SEC. 6. All funds appropriated for the use and benefit of said Normal School, from every source, including the pro rata share of the available proceeds of sales of lands granted by the government of the United States

to the State of Idaho for the establishment and maintenance of State Normal Schools due to said Normal School shall be under the direction and control of the said board of trustees subject to the provisions herein contained. The treasurer of the board of trustees shall pay out of such funds all orders or drafts for money to be expended under the provisions of this Act. Such orders or drafts shall be drawn by the State Auditor on certificates of the secretary countersigned by the president of said board of trustees and approved by the State Board of Examiners. No such certificates shall be given except on accounts audited and allowed by said board of trustees.

SEC. 7. The board of trustees shall hold two regular meetings annually, at the said town of Albion, but special meetings may be called by the president of the board by sending written notice of at least ten days to each member.

SEC. 8. The board of trustees shall have power to elect a principal and all other teachers that may be deemed necessary, to fix the salaries of the same and to prescribe their duties. They shall have power to remove either the principal, assistant, or teachers, and appoint others in their stead.

SEC. 9. It shall be the duty of the board of trustees, to prescribe the course of study, and the time, and standard of graduation, and to issue such certificates and diplomas as may from time to time be deemed suitable. These certificates and diplomas shall entitle the holders to teach in the public schools in any county in this State for the time and in the grade specified in the certificate or diploma.

SEC. 10. The board of trustees shall prescribe the text books, apparatus, and furniture, and provide the same, together with all necessary stationery for the use of pupils.

SEC. 11. The board of trustees shall, when deemed expedient, establish and maintain a training or model school or schools in which the pupils of the Normal School, shall be required to instruct classes, under the supervision and direction of experienced teachers.

SEC. 12. The board of trustees shall ordain such rules and regulations for the admission of pupils to said Normal School as they shall deem necessary and proper. All classes may be admitted into the said Normal School who are admitted without restriction into the public schools of the State: *Provided*, The applicant if a male, must be not less than sixteen years of age or if a female not less than fifteen years of age.

Applicants must also present letters of recommendation from the county superintendent of public instruction, of the county in which they reside, certifying to their good moral character and their fitness to enter the Normal School. Before entering all applicants must sign the following declaration:

"We hereby declare that our purpose in entering the Albion State Normal School is to fit ourselves for the profession of teaching, and that it is our intention to engage in teaching in the public schools of this State."

SEC. 13. Pupils from other States and Territories may be admitted to all the privileges of said Normal School on presenting letter of recommendation from the Executive, or State School Superintendent thereof, and paying such tuition fee as the board of trustees may prescribe. Each of such pupils must sign the following declaration: "I hereby declare

that my purpose in entering the Albion State Normal School is to fit myself for the profession of teaching."

SEC. 14. Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry, and any other science, or any other branch of literature that the board of trustees may direct may be delivered to those attending such school, in such manner and on such conditions as the board of trustees may prescribe.

SEC. 15. The actual and necessary personal expenses incurred by the members of said board of trustees in carrying out the provisions of this Act shall be paid on the proper certificate out of any funds belonging to said Normal School, in the hands of the treasurer.

SEC. 16. It shall be the duty of the Governor of the State to fill by appointment all vacancies that may from any cause occur in the said board of trustees.

SEC. 17. The president and secretary of the said board of trustees shall on the first days of January and July of each year, transmit to the Governor of the State, a full report of the doings of the said board of trustees the progress and condition of the said Normal School, together with a full report of the expenditures of the same for the previous six months setting forth each item in full, and the date thereof, and such recommendations as they deem proper for the good of said Normal School.

SEC. 18. The board of trustees in their regulations, and the principal and assistant in their supervision and government of the said school shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance upon the same, but no religious or sectarian test shall be applied in the selection of teachers and none shall be adopted in the said school.

SEC. 19. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 106.

AN ACT

TO REPEAL SECTION 1649 OF THE REVISED STATUTES OF THE STATE OF IDAHO, RELATING TO MERCHANTS AND KEEPERS OF LIVERY STABLES LICENSE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1649 of the Revised Statutes of the State of Idaho, be, and the same hereby is repealed.

SEC. 2. Whereas an emergency exists therefore this Act shall be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 107.

AN ACT

REGULATING THE TIME OF FILING AND SERVING VERIFIED COST BILLS IN CIVIL ACTIONS, AMENDING SECTION 4912, REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 4912 of the Revised Statutes of the State of Idaho be amended so as to read as follows, to wit:

Section 4912. The party in whose favor the judgment is rendered and who claims his costs, must within five days after the verdict or no-

tice of the decision of the court or referee, file with the clerk, and serve upon the adverse party or his attorney a copy of a memorandum of the items of his costs and necessary disbursements in the action or proceeding, which memorandum must be verified by the oath of the party or his attorney or agent, or by the clerk of his attorney, stating that to the best of his knowledge and belief, the items are correct and that the disbursements have been necessarily incurred in the action or proceeding.

A party dissatisfied with the costs claimed, may within five days after the service upon him of the copy of the memorandum, filed and served upon the adverse party or his attorney a notice of a motion to have the same taxed by the court in which the judgment was rendered, or by the judge thereof at chambers.

SEC. 2. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 108.

AN ACT

AUTHORIZING DIVORCES TO BE GRANTED IN CASES OF INSANITY, AND REGULATING THE DUTIES OF THE DISTRICT ATTORNEY THEREIN.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That in addition to the causes for divorce mentioned in section 2457 of the Revised Statutes of this State, a divorce may be granted when either husband or wife has become permanently insane. *Provided*, That no divorce shall be granted under the provisions of this Act, unless such insane person shall have been duly and regularly confined in the insane asylum of this State, for at least six years next preceding the commencement of the action for divorce; nor, unless it shall appear to the court that such insanity is permanent and incurable. And *Provided further*, That no action shall be maintained under the provisions of this Act, unless the plaintiff shall be an actual resident of this State and shall have resided therein for six years next preceding the commencement of such action.

SEC. 2. The district courts of the several judicial districts of this State shall have jurisdiction of actions for divorce under the provisions of this Act; and such action shall be brought in the county of this State in which the plaintiff resides. And the court in which such action is about to be commenced shall, upon the filing by the plaintiff of a petition duly verified showing that a cause of action exists under this Act, appoint some person to act as guardian of such insane person in such action, and the summons and complaint in such action shall be served upon the defendant by delivering a copy of such summons and complaint to such guardian and by delivering a copy thereof to the county attorney of the district in which such action is brought.

SEC. 3. It shall be the duty of the county attorney upon whom the summons and complaint in such action shall be served, to appear for such defendant in such action and defend the same, and no divorce shall be granted under the provisions of this Act except in the presence of the county attorney.

SEC. 4. In any action brought under the provisions of this Act the said courts and the judges thereof shall possess all the powers relative to the payment of alimony, the distribution of property and the care and

custody of children of the parties that such courts now have, or may hereafter have in other actions for divorce.

SEC. 5. All the costs of the court in such action, as well as the actual expenses of the county attorney therein, together with the expenses and fees of the guardian therein, shall be paid by the plaintiff; such expenses of the county attorney and the expenses and fees of the guardian shall be fixed and allowed by the court, and the court, or the judge thereof, may make such order as to the payment of such fees and expenses as to the court, or judge, may seem proper.

SEC. 6. Whereas an emergency is declared to exist this Act shall take effect and be in force from and after its approval by the Governor.

Approved on the 14th day of February, 1899.

H. B. NO. 109.

AN ACT

FIXING THE TIME FOR COUNTY AUDITORS AND TREASURERS TO MAKE QUARTERLY STATEMENT AND FOR PUBLISHING THE SAME, AMENDING SECTION 2010 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 2010 of the Revised Statutes of the State of Idaho be amended to read as follows:

The auditor and treasurer of each county must, on the second Monday in January, April, July, and October, make a joint statement to the board of commissioners, showing the whole amount of collections (stating particularly the source of each portion of the revenue) from all sources paid into the county treasury, the funds among which the same was distributed, and the amount to each; the total amount of warrants drawn and paid, and on what fund; the total amount of warrants drawn and unpaid, and accounts or claims audited, or allowed and unpaid, and the fund out of which they are to be paid, and generally make a full and specific showing of the financial condition of the county; and said auditor and treasurer shall cause to be published a summary of said statements in some newspaper published in the county.

SEC. 2. An emergency existing therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 110.

AN ACT

TO PROVIDE FOR AN ORDER DISCHARGING THE LIEN OF WRITS OF ATTACHMENT AND EXECUTION, AND FILING OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever in any action, real estate has been levied upon under writs, either of attachment or execution, and the lien of the writ has in any manner been lost or destroyed, the court out of which the writ issued or the judge thereof, may on application by any person interested make an order discharging said lien and the order or a certified copy thereof may be filed in the office of the county recorder in which the notice of the levy has been filed, and indexed in like manner as said notice.

SEC. 2. An emergency existing therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 111.

AN ACT

PREScribing THE FORM OF OFFICIAL OATH, AMENDING SECTION 350 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 350 of the Revised Statutes of the State of Idaho be amended so as to read as follows:

Section 350. Before any officer elected or appointed to fill any office, created by the laws of the State of Idaho, enters upon the duties of his office, he must take and subscribe an oath, to be known as the "official oath," which is as follows:

I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution and the laws of this State; that I will faithfully discharge all the duties of the office of according to the best of my ability. So help me God.

SEC. 2. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 112.

AN ACT

TO BETTER DEFINE AND TO LOCATE THE BOUNDARY LINE BETWEEN ELMORE AND ADA COUNTIES IN THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. To better define and locate the boundary line as established and described in section two hundred, seventy-nine (279) of the special and local laws of the State of Idaho: The boundary line between the counties of Elmore and Ada is hereby declared to be: Beginning at a point in the center of the channel of Boise river opposite the mouth of Moore's creek, extending in a straight line in a southwesterly direction to a point in the middle of the channel of Snake river opposite the mouth of Bruneau river.

SEC. 2. The county commissioners of the counties of Elmore and Ada at their regular meeting in April, 1895, shall direct the county surveyors of their respective counties acting jointly to survey said line and to locate the same by the erection of proper monuments along said line, said monuments to consist of mounds of rocks five (5) feet square at the base, and three (3) feet high at intervals of not less two miles, nor more than two and one-half ($2\frac{1}{2}$) miles apart.

SEC. 3. Such location and survey shall be completed and proof of the performance thereof shall be forwarded by the parties making such survey to the chairman of the boards of county commissioners of Elmore and Ada Counties respectively before the first day of July 1895.

SEC. 4. The expenses incurred in such survey and determination shall be borne equally by the said counties of Elmore and Ada.

SEC. 5. Should either Elmore and Ada counties fail, neglect or refuse to assist in making the survey provided for in sec. (2) two of this Act, then the other county is hereby empowered to make such survey independently, and the county making such survey independently shall be entitled to recover one-half ($\frac{1}{2}$) the amount of expenses incurred in such independent survey, from the county so failing, neglecting, or refusing in any court of competent jurisdiction.

SEC. 6. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 7. Whereas, an emergency exists, this Act shall take effect and be in force from and after its approval.

Approved on the 14th day of February, 1899.

H. B. NO. 113.

AN ACT

TO PROVIDE A FORM FOR UNDERTAKINGS, IN CIVIL AND CRIMINAL ACTIONS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That whenever a party to any action or proceeding desires to give an undertaking provided to be given by law, it shall be sufficient if the sureties sign an undertaking indicating that they are thereby bound to the obligations of the statute requiring the undertaking to be given.

SEC. 2. That such undertaking may be in form as follows:

(Title of Court.)

(Title of Cause.)

Whereas, the desires to give an undertaking for (state what) now therefore, we the undersigned sureties, do hereby obligate ourselves jointly and severally, to (name who) under said statutory obligations in the sum of dollars.

SEC. 3. That the sureties so signing such undertaking are bound to the full statutory obligations of the statute requiring the undertaking.

SEC. 4. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 114.

AN ACT

TO PROVIDE FOR MAKING SHERIFF'S DEEDS WHERE THE SHERIFF MAKING THE SALE IS NO LONGER IN OFFICE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. When the sheriff who has sold any real estate shall die, resign, be removed from office, or his term of office expire, and, before executing any good and sufficient deed for such real estate, such deed may be executed by the successor in office of such sheriff with the same effect to all intents and purposes as if made by the sheriff making the sale.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 115.

AN ACT

CEDING TO THE GOVERNMENT OF THE UNITED STATES JURISDICTION OVER CERTAIN LANDS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That consent is given to any purchase already made, or that may hereafter be made, by the government of the United States, of any lots, or tracts of land, within this State for the use of such government, and to erect thereon and use such buildings, or other improvements, as may be deemed necessary by said government; and that over

such lands and the buildings, or improvements, that are, or may be, erected thereon the said government shall have entire control and jurisdiction, except that the State shall have jurisdiction to execute thereon all process, civil or criminal, lawfully issued by the courts of this State and not incompatible with this cession.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 116.

AN ACT

PROVIDING FOR THE INCORPORATION OF CHURCHES AND RELIGIOUS SOCIETIES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Incorporations may be formed for acquiring, holding and disposing of church or religious society property, for the benefit of religion, for works of charity and for public worship, in the manner hereinafter provided in this Act.

SEC. 2. That any person being a bishop, overseer, presiding elder or clergy of any church or religious society who shall have been duly chosen, elected or appointed, in conformity with the constitution, canons, rites, regulations or discipline of said church or religious society, and in whom shall be vested the legal title to the property of such church or religious society, may make and subscribe written articles of incorporation in duplicate and acknowledge the same before some officer authorized to take acknowledgements and file one of such articles in the office of the Secretary of State and retain possession of the other.

SEC. 3. The articles of incorporation shall specify:

FIRST. The name assumed by the corporation and by which it shall be known;

SECOND. The object of said corporation;

THIRD. The estimated value of the property at the time of making the articles of incorporation;

FOURTH. The title of the person making such articles.

SEC. 4. Upon making and filing for record articles of incorporation as herein provided, the person subscribing the same, and his successor in office, by the name or title specified in the articles, shall hereafter be deemed, and is hereby created, a body politic and a corporation sole, with continual perpetual succession, and shall have power to acquire and possess by donation, gift or purchase, and to retain and enjoy property, real, personal and mixed, and the same to sell, grant, convey or rent or otherwise dispose of it at pleasure.

SEC. 5. Such corporations shall have the power to contract and to be contracted with, to sue and be sued, plead and be pleaded in all courts of justice, and to have and use a common seal by which all deeds and acts of such corporation shall pass and be authenticated.

SEC. 6. All deeds and other instruments of writing shall be signed by the person, representing the corporation, in the official capacity designated in the articles of incorporation, and sealed with the seal of the corporation, and impression of which seal shall be filed in the office of the Secretary of State.

SEC. 7. The articles of incorporation, or a certified copy of the one

filed and recorded in the office of the Secretary of State, shall be evidence of the existence of such corporation.

SEC. 8. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 117.

AN ACT

TO DEFINE THE MANNER OF LOCATING LODE, QUARTZ AND PLACER CLAIMS; TO DETERMINE BOUNDARIES THEREOF; TO PROVIDE FOR DISCOVERY SHAFTS OR CROSS-CUTS; TO DETERMINE THE FORM OF LOCATION CERTIFICATES; TO PROVIDE FOR LOCATION OF ABANDONED CLAIMS, ASSESSMENT WORK, AND PROOF THEREOF, AND FOR AMENDMENT OF LOCATION NOTICES; TO PROVIDE FOR SECURITY FOR SURFACE OWNERS; TO AMEND SECTIONS 3100, 3101, 3103, 3104, 3105, AND TO REPEAL SECTION 3102, OF CHAPTER 1, TITLE 8, AND SECTIONS 3120, 3121, AND 3122 OF CHAPTER 2, TITLE 8 REVISED STATUTES OF THE STATE OF IDAHO, AND TO PROVIDE FOR RECORDER'S FEES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3100 of the Revised Statutes of Idaho be amended to read as follows:

Section 3100. Mining claims hereafter located upon veins or lodes of quartz, or other rock in place bearing any of the metals or other valuable deposits mentioned in section 2320 of the Revised Statutes of the United States, may extend to three hundred feet on each side of the middle of the vein or lode: *Provided*, That when the locators have set stakes, posts or monuments described in section 2 hereof, to indicate the line of the vein, ledge or lode, such stakes, posts or monuments must be taken for the purpose of such location, to mark correctly the line thereof, and such line must not afterwards be changed so as to affect rights acquired or interfere with any locations made subsequent thereto.

SEC. 2. Section 3101 of the Revised Statutes of Idaho be amended to read as follows:

Section 3101. The locator, at the time of making the discovery of such vein or lode, must erect a monument at such place of discovery, upon which he must place his name, the name of the claim, the date of discovery and distance claimed along the vein each way from such monument. Within three days from the date of discovery, he must mark the boundaries of his claim by establishing at each corner thereof and at any angle in the side lines, a monument, marked with the name of the claim and the corner or angle it represents; also at the time of so marking his boundaries, he must post at his discovery monument his notice of location in which must be stated: First, the name of the locator; second, the name of the claim; third, the date of discovery; fourth, the direction and distance claimed along the ledge from the discovery; fifth, the distance claimed on each side of the middle of the ledge; sixth, the distance and direction from the discovery monument to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself, the location of the claim; and seventh, the name of the mining district, county and State. When, from any cause, a monument can not be safely planted at the true corner or angle, it may be placed as near thereto as practicable, and so marked as to indicate the place of such corner or angle. Monuments may be made of any such material or form as will readily give notice, and when of posts or trees, they must be hewn or marked upon the side facing towards the discovery, and must be at least four inches square or in diameter.

Monuments must be at least four feet high above the ground, and trees must be so hewn as to readily attract attention. At the time the locator so marks the boundaries of his claim, he may do so in any direction that will not interfere with rights or claims which existed prior to his discovery.

SEC. 3. Within sixty days after such location, the locator or his assigns, must sink a shaft upon the lode to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface. And of not less than sixteen square feet area. Any excavation which shall cut such vein ten feet from the lowest part of the rim of such shaft and which shall measure one hundred and sixty cubic feet in extent shall be considered a compliance with this provision. Any located claim upon which work has been done in compliance with the above requirements is not, unless abandoned, subject to relocation for a period of ninety days from and after the date of location.

SEC. 4. Within ninety days after the location of the claim the locator or his assigns must file for record in the office of the county recorder of the county or of the deputy recorder of the mining district in which the claim is situated, a substantial copy of his notice of location.

SEC. 5. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall be desirous of changing the surface boundaries, or of taking any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefits of this Act, such locator or his assigns, may file an additional certificate subject to the conditions of this Act and to contain all that this Act required an original certificate to contain: *Provided*, That such amended location does not interfere with the existing rights of others at the time when such amendment is made.

SEC. 6. Within sixty days after any time set or period allowed for the performance of labor, or making improvements upon any lode, or placer claim, the person in whose behalf such work or improvement is performed or some person for him must make and record an affidavit in substance as follows:

State of Idaho, }
County of } ss.

Before me the subscribed, personally appeared, who being first duly sworn, says that at least dollars worth of work or improvements were performed or made upon claim, situate in mining district, County of, State of Idaho: that such expenditure was made by, for, or at the expense of, owners of said claim, for the purpose of holding said claim.

Signature.....

Subscribed and sworn to before me this day of 189.....

The fee for administering the oath and recording the foregoing affidavit, when taken before the county recorder or deputy mining recorder, shall be fifty cents; the fee for recording the same when the oath is taken before any other officer authorized to administer oaths shall be fifty cents.

Such affidavit, or a certified copy thereof in case the original is lost, shall be prima facie evidence of the performance of such labor. The failure to file such affidavit shall be considered prima facie evidence that such labor has not been done.

SEC. 7. The location of abandoned claims shall be done in the same manner as if the location were of a new claim; but the locator may, instead of sinking a new discovery shaft, sink the original discovery shaft ten feet deeper than it was at the time of his location, or he may drive the open cut, or tunnel ten feet further along the course of the lead, lode or vein, and must erect new posts or monuments.

SEC. 8. No location notice shall claim more than one location, whether the location is made by one or several locators, and if it purport to claim more than one location it is absolutely void.

SEC. 9. That section 3103 of the Revised Statutes of Idaho is hereby amended to read as follows:

Section 3103. For the convenience of prospectors and locators, the county recorders of the several counties must appoint a deputy at any place where he may deem it necessary, and at all places more than twenty miles distant from an existing office whenever ten or more mining locators interested, petition for the appointment of a deputy. Upon failure of any recorder to appoint a deputy for ten days after the petition in writing has been presented to him, the resident miners in such district may appoint temporarily, one of their number to act as the recorder for the district, whose record shall be as valid as if made by the deputy, and must be entered by the recorder as hereinafter required: *Provided*, That whenever at any time afterwards, the recorder has appointed a deputy for such district or place, the authority of the person elected by the resident miners ceases.

SEC. 10. When the right to mine is in any case separate from the ownership or right of occupancy of the surface ground, the owners or rightful occupants of the surface ground may demand satisfactory security from the miners, and if it be refused or not given, may enjoin such miners from working such ground until such security is given. The court granting the writ of injunction shall fix the amount and nature of the security.

SEC. 11. Placer claims, as mentioned in section 2329 of the Revised Statutes of the United States, may be located for the purpose of mining deposits and precious stones after the discovery of such deposits.

SEC. 12. The locator of any placer mining claim located for the purpose of mining placer deposits or precious stones, must, at the time of making the location, place a substantial post or monument as is required in the location of quartz claims at each corner of the location and must also post on one of the same a notice of location containing the date of the location, the name of the locator, the name and dimensions of the claim, the mining district (if any) and county in which the same is situated; and must also give the distance and direction from said post or monument to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the location of the claim. Within fifteen days after making the location, the locator must make an excavation upon the claim of not less than one hundred cubic feet, for the purpose of prospecting the same. Within thirty days after the location, the locator must file for record in the office of the county recorder of the county, or of the deputy recorder of the mining district in which the claim is situated, a sub-

stantial copy of his copy of notice of location, to which must be attached an affidavit such as is required in the case of quartz claims.

SEC. 13. That section 3104 of the Revised Statutes of Idaho be amended to read as follows:

Section 3104. At or before the time of presenting a location notice for record, whether it be for a quartz or placer claim, one of the locators named in the same must make and subscribe an affidavit, in writing on or attached to the notice, substantially in the following form, to-wit:

State of Idaho, }
County of.....} ss.

I, ..., do solemnly swear that I am a citizen of the United States of America (or have declared my intentions to become such) and that I am acquainted with the mining ground described in this notice of location, and herewith called the ledge, lode or claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been located according to the laws of the United States and of this State, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws, and (in the case of quartz claims) that I have opened new ground to the extent or depth of ten feet as required by the laws of Idaho.

Signature.....

Subscribed and sworn to before me this.....day of.....A. D. 189...

Signature.....

SEC. 14. That section 3105 of the Revised Statutes of Idaho is amended so as to read as follows, to-wit:

Section 3105. The location notice herein required to be recorded must be recorded by the deputy appointed for the district, or the person appointed for that purpose as above provided (when the legal fee therefor is tendered) in a book to be kept for that purpose. Said book must be indexed, with the names of all the locators arranged in alphabetical order, according to the family or surname of each. The fee to be tendered for making such record, administering the oath to the locator and certifying the same, for indexing the names appearing on the notice, and to include recording the notice by the recorder as hereinafter required, and the indexing by said recorder, is two dollars, which fee must be equally divided between the recorder and the deputy or the person acting under an election as hereinbefore provided, and no other additional sum of money must be demanded or received by either of them for any services connected with the recording of any location notice made pursuant to the requirements of this chapter.

SEC. 15. Section 3102 of chapter 1, title 8, and sections 3120, 3121 and 3122, chapter 2, title 8, of the Revised Statutes of the State of Idaho are hereby repealed.

SEC. 16. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 118.

AN ACT

EXTENDING THE TIME OF REDEMPTION OF REAL ESTATE SOLD UNDER EXECUTION OR FORECLOSURE, AMENDING SECTIONS 4492, AND 4493 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 4492 and 4493 of the Revised Statutes are hereby amended to read as follows:

Section 4492. The judgment debtor or redemptioner may redeem the property from the purchaser within one year after the sale, on paying the purchaser the amount of his purchase with ten per cent. thereon in addition, together with the amount of any assessment or taxes which the purchaser may have paid thereon after the purchase, and interest on such amount; and, if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made the amount of such lien with interest.

Section 4493. If property be so redeemed by a redemptioner, another redemptioner may, within sixty days after the last redemption and within one year after the sale, again redeem it from the last redemptioner on paying the sum paid on such last redemption with four per cent. thereon in addition, and the amount of any assessment or taxes which the last redemptioner may have paid thereon, after the redemption by him with interest on such amount, and in addition the amount of any liens held by said last redemptioner prior to his own, with interest; but the judgment under which the property was sold need not be so paid as a lien.

The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner, within sixty days after the last redemption and within one year after the sale, on paying the sum paid on the last previous redemption with four per cent. thereon in addition and the amount of any assessments or taxes which the last previous redemptioner paid after the redemption by him, with interest thereon, and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to his own, with interest.

Written notice of redemption must be given to the sheriff, and a duplicate filed for record with the recorder of the county; and, if any taxes or assessments are paid by the redemptioner, or, if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the sheriff and filed with the recorder, and if such notice be not filed, the property may be redeemed without paying such tax, assessment or lien.

If no redemption be made within one year after the sale, the purchaser, or his assignee, is entitled to a conveyance; or, if so redeemed, whenever sixty days have elapsed and no other redemption has been made, and notice thereon given, the time for redemption by a redemptioner has expired, and the last redemptioner or his assignee, is entitled to a sheriff's deed at the expiration of one year after the sale; but in all cases the judgment debtor shall have the entire period of one year from the date of the sale to redeem the property.

If the judgment debtor redeem, he must make the same payments as are required to effect a redemption by a redemptioner.

If a debtor redeem, the effect of the sale is terminated and he is restored to his estate.

Upon a redemption by the debtor, the person to whom the payment is made must execute and deliver to him a certificate of redemption, acknowledged and proved before an officer authorized to take acknowledgments of conveyances of real property.

Such certificate must be filed and recorded in the office of the recorder of the county in which the property is situated, and the recorder must note the record thereof in the margin of the record of the certificate of sale.

SEC. 2. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 119.

AN ACT

MAKING IT UNLAWFUL FOR ANY JUDGE, OR COUNTY OFFICER TO CHARGE SOLDIERS OR SEAMEN OR THE WIDOWS, ORPHANS OR LEGAL REPRESENTATIVES THEREOF, ANY FEE FOR SERVICES IN MATTERS PERTAINING TO PENSIONS OR PENSION DUES, AND DECLARING AN EMERGENCY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That no judge or clerk of court, county clerk, county auditor or any other county officer shall be allowed to charge any honorably discharged soldier or seaman or the widow, orphan or legal representative thereof any fee for administering any oath or giving any official certificate for the procuring of any pension, bounty or back pay, nor for administering any oath or oaths and giving the certificate required upon any voucher for collection of periodical dues from the pension agent, nor any fee for services rendered in perfecting any voucher.

SEC. 2. That any such officer who may require and accept fees for such services shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than ten dollars nor more than fifty dollars.

SEC. 3. That all laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. Whereas, the present law requires the officers aforesaid to charge and collect all fees prescribed by law without exempting the persons named in section 1 of this Act, therefore an emergency is declared and this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 120.

AN ACT

PROVIDING FOR THE DISTRIBUTION OF MONEYS COLLECTED FOR LICENSES, AND PRESCRIBING THE FUND IN WHICH THE SAME SHALL BE PAID; AMENDING SECTION 1640 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1640 of the Revised Statutes Idaho is hereby amended to read as follows:

Section 1640. On the first Monday in each month the collector must return to the auditor all licenses unsold and be credited therewith, and must, with the auditor, appear at the treasurer's office and pay into the county treasury all moneys collected for licenses sold during the preceding month, take the treasurer's receipt therefor and file a duplicate

thereof with the auditor. The auditor must credit the collector and charge the treasurer therewith.

Fifty per cent. of all moneys paid for licenses shall be applied to and constitute a part of the school fund of the school district in which said licenses are collected, forty per cent. to the general road fund of the county in which said licenses are collected and ten per cent. shall be paid into the State treasury: *Provided*, That forty per cent. of all moneys paid for licenses by applicants within incorporated towns, cities and villages, or cities acting under special charters, shall be paid by the county treasurer to the municipal authorities of such town, city or village for general revenue purposes of such town, city or village; fifty per cent. of said moneys so paid for licenses are to be applied and constitute a part of the school fund of the school district in which said licenses are collected, and ten per cent. shall be paid into the State treasury.

The collector shall file with the treasurer a statement or report each quarter showing the amount of licenses collected in each school district, incorporated town, city or village, or city acting under special charter.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 121.

AN ACT

PROVIDING THE MANNER OF GIVING NOTICE OF SALES UNDER EXECUTION; AMENDING SECTION 4482 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section four thousand four hundred and eighty-two (4482) of the Revised Statutes of Idaho be amended so as to read as follows:

Section 4482. Before the sale of the property on execution notice thereof must be given as follows:

1. In case of perishable property, by posting written notice of the time and place of sale in three (3) public places of the precinct or city where the sale is to take place, for such time as may be reasonable, considering the character and condition of the property.

2. In case of other personal property, by posting a similar notice in three public places in the precinct or city where the sale is to take place, for not less than five nor more than ten days, and, when so requested in writing by either the plaintiff or the defendant, by publishing a copy thereof at least one week, and not more than two weeks, in the newspaper nearest the property to be sold, published in the county, if there be one.

3. In case of real property, by posting a similar notice, particularly describing the property, for twenty days, in three public places in the precinct or city where the property is situated, and also where the property is to be sold, and when so requested in writing by either the plaintiff or the defendant, by publishing a copy thereof once a week for the same period, in the newspaper nearest the property to be sold, published in the county, if there be one. When judgment under which the property is to be sold is made payable in a specified kind of money or currency, the several notices required by this section must state the kind of money or currency in which

bids may be made at such sale, which must be the same as that specified in the judgment.

SEC. 2. An emergency existing therefor, this Act shall take effect from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 122.

AN ACT

RELATING TO THE PAVING AND CURBING OF, AND CONSTRUCTION OF SIDEWALKS ON THE STREETS OF INCORPORATED CITIES IN THE STATE OF IDAHO, AND PROVIDING FOR THE PAYMENT OF THE EXPENSES THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That all incorporated cities of this State, in which at the last preceding city election held prior to the filing of the petition, or the casting of the vote of the members of the city council mentioned in section 6 of this Act, there were cast seven hundred, or more, votes for mayor, shall have the powers and be subject to all the provisions of this Act; and this Act shall be applicable to all such cities either organized or incorporated under general laws or the special or local laws of this State.

SEC. 2. When the council of any such city shall direct the paving or curbing of, or the construction of sidewalks on, any street or streets, they shall make and enter into a contract for furnishing materials and for the paving or curbing or construction of sidewalks, as the case may be, of such street or streets, either for the entire work in one contract or parts thereof, in separate and specified sections, as to them may seem best: *Provided*, That no work shall be done under any such contract until a certified copy thereof shall have been filed in the office of the city clerk.

SEC. 3. All such contracts shall be made by the council in the name of the city upon such terms of payment as shall be fixed by the council, and shall be made with the lowest and best bidder upon sealed proposals, after public notice for not less than three weeks, in at least two newspapers of said city, which notice shall contain a description of the kind and amount of work to be done and material to be furnished as nearly accurate as practicable.

SEC. 4. Each contractor shall be required to give a bond to the city, with sureties to be approved by the council, for the faithful performance of the contract, and the council shall have power to institute suit in the name of the city to enforce all such contracts.

SEC. 5. It shall be the duty of the city engineer to furnish the council with proper grades and lines and see that the work is done in accordance with the ordinances and regulations of the city with respect to said grades and lines.

SEC. 6. The council of any such city shall not have the right to authorize any improvement under this Act unless the owners of two-thirds of the feet front of the property abutting upon the street or streets to be improved shall first petition therefor, or unless the same shall be voted for by three-fourths of the members of the council.

SEC. 7. For the purpose of paying the costs and expenses incurred in making the improvements provided for in this Act, or either, or any thereof, such city is empowered to issue bonds and sell the same in the manner in this Act provided.

SEC. 8. Before any such bonds are issued, the mayor and common council of such city must, by resolution passed at a regular meeting, declare the purpose or purposes for which such bonds are to be issued, and the total amount. They must also, by ordinance, provide for the holding of a special election of the qualified voters of such city, which shall be conducted as other city elections, at which election there shall be submitted to such electors the question of issuing such bonds for the purpose named in such resolution. The voting at such election must be by ballot, on which ballot must be written or printed:

“For bonds and debt (here separately naming the purpose or purposes for which said bonds shall be issued and said debt incurred),” or “against bonds and debt (here separately naming the purpose or purposes for which such bonds shall be issued and such debt incurred).”

If it shall appear upon a canvass of such ballots that two-thirds of such qualified voters voting at such election assent to the issuing of such bonds and the incurring of the indebtedness thereby created for any one or more of the purposes named in such resolution, such bonds for said purpose or purposes shall be issued in the manner in this Act provided.

SEC. 9. Said bonds shall be known as municipal improvement coupon bonds of (name city, county and State) and shall be issued as near as practicable in denominations of five hundred dollars each, but bonds of the denomination of one hundred dollars may be issued when necessary, and each bond shall be payable in seven years from the date of its issuance, to which must be attached seven coupons maturing and payable and for the amounts as follows:

The first coupon shall be payable one year from the date of the issuance of the bond in an amount equal to one-seventh of the principal of the bond with interest on the total amount of the bond for one year; the second coupon shall be payable in two years from the date of the issuance of the bond in an amount equal to one-seventh of the principal of the bond with interest on six-sevenths of the principal of said bond for a period of one year; the third coupon shall be payable in three years from the date of issuance of said bond in an amount equal to one-seventh of the principal of the bond with interest on five-sevenths of the principal of said bond for one year; the fourth coupon shall be payable in four years from the date of the issuance of the bond in an amount equal to one-seventh of the principal of said bond with interest on four-sevenths of the principal of said bond for one year; the fifth coupon shall be payable in five years from the date of the issuance of the bond in an amount equal to one-seventh of the principal of said bond with interest on three-sevenths of the principal of said bond for one year; the sixth coupon shall be payable in six years from the date of the issuance of the bond in an amount equal to one-seventh of the principal of the bond with interest on two-sevenths of the principal of said bond for one year; and the seventh coupon shall be payable in seven years from the date of the issuance of said bond in an amount equal to one-seventh of the principal of said bond with interest on one-seventh of the principal of said bond for one year. Upon the payment of the seventh coupon, as above provided, said bond shall become null and void. The rate of interest must not exceed seven per cent. per annum.

SEC. 10. The bonds mentioned in the preceding section must be signed by the mayor and attested by the city clerk and bear the city seal and be

countersigned by the city treasurer, and the coupons attached to such bonds must be signed by the city treasurer. Each coupon must have annexed to the same a number corresponding with the number of the bond, and each bond must state upon its face the amount for which the same is issued, to whom issued and the date of issue, and must also recite that it is issued in conformity with the provisions of this Act.

SEC. 11. The said mayor and common council must give three weeks' notice by publication in some newspaper published in such city, of its intention to issue and negotiate such bonds, and invite bidders therefor, and after ascertaining the best terms upon, and the lowest interest at, which such bonds can be negotiated, must secure the proper engraving and printing thereof, and must thereafter have them consecutively numbered and otherwise properly prepared and executed; and when so executed, they must be by the city clerk registered in a public-record book to be kept for that purpose, and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached and any other proper description thereof for future identification. That then said mayor and common council must from time to time, in such amounts as they may deem best, deliver said bonds to the city treasurer and take and file his receipt therefor, and charge him with all bonds so delivered; and any duties required of said mayor and common council by virtue of this Act may be performed at any general, special or called meeting thereof. The city treasurer must, under the general supervision of said mayor and common council, sell said bonds for cash, and in no case must said bonds be sold for less than the face or par value and the accrued interest at the time of disposal. All proceeds derived from the sale of said bonds must be applied exclusively to the purposes for which said bonds are issued. And in no case must any more of said proceeds be expended for any one purpose than the amount named in the resolution of said mayor and common council above mentioned. Said city treasurer must keep a record of all bonds disposed of by time, showing their number, rate of interest, date and amount of sale, and when, where and to whom payable, which record he must keep open for the inspection of the public at all reasonable office hours, and he must make such detailed statements to, and as often as required by said mayor and common council of all of his transactions under the provisions of this Act. Should the tax for the payment of interest and installment of principal on any of the bonds issued under the provisions of this Act at any time not be collected in time to meet such payment, the interest and such installments must be paid out of any moneys in the city general or expense fund, and the moneys so used for such payment must be repaid to the fund from which so taken out of the first moneys collected from the assessments in this Act provided.

SEC. 12. All moneys received by the city treasurer from the sale of said bonds, shall be kept by him in a separate fund and paid out on requisition of the council, accompanied by affidavit of the city engineer, that work has been done or material furnished to the amount of said requisition and that it is required for payment of the same, and all moneys received by said treasurer shall be kept in the same manner, and subject to the regulations regarding other money of the city, except that he shall keep a separate account of the same and all interest received upon the same shall be credited to such fund.

SEC. 13. When any such improvement shall have been completed it

shall be the duty of the council to ascertain the entire amount of the bonds sold, and the interest thereon, to the date of completion, which shall be taken to be the cost of such improvement, and such costs shall then be assessed as shall be provided by law or by ordinance of such city, upon the property fronting or abutting upon such improvement: *Provided*, Nothing in this Act shall be construed as authorizing the assessment of any such cost on property belonging to the State.

SEC. 14. The council shall cause a plat to be made of the street or streets on which any such improvement shall be made, showing the separate lots of ground, and the names of the several owners, and shall make or cause to be made a list or schedule of the names of all such owners, and the amount assessed against each lot or piece of ground, and shall give two weeks' public notice in two newspapers in the city, and by hand bills posted in conspicuous places, on the line of such street or streets, of the time and place where, for the period of twenty days thereafter, the same may be seen for the correction of errors, and after having corrected such errors as may be made known to them, they shall file the same in the office of the city clerk.

SEC. 15. Said assessment shall be certified by the mayor of the city and attested by the city clerk and delivered to the county assessor who shall place the same upon the city assessment roll, and said assessment shall be payable at the office of the city tax collector in seven equal installments, with interest at seven per cent. per annum from the date of the assessment upon the unpaid portion thereof, the first of which, with interest on the whole amount at seven per cent, shall be payable at the first annual payment of taxes next succeeding the time said assessment is placed upon the tax roll, and the others annually thereafter, and said assessment shall be collected in the same manner as other city taxes.

SEC. 16. Said assessments, with interest accruing thereon, shall be a lien upon the property abutting upon the street or streets on which any such improvement is made from the commencement of the work, and shall remain a lien until fully paid and shall have precedence over all other liens excepting ordinary taxes and shall not be divested by any judicial sale: *Provided*, That such lien shall be limited to the lots bounding or abutting on such street or streets, and not exceeding in depth therefrom one hundred and fifty feet.

SEC. 17. All moneys received from assessments shall be appropriated to the payment of the interest and redemption or payment of the bonds that shall be issued for said improvements, and if any interest shall become due on any of said bonds, when there is no funds from which to pay the same, the council shall be authorized to make a temporary loan for the payment thereof.

SEC. 18. Any mistake in the description of the property or in the name of the owner shall not vitiate the lien.

SEC. 19. Any part or section of any street may be improved under this Act as well as an entire street.

SEC. 20. Whereas there exists an emergency therefor, this Act shall take effect and be in force from and after its passage.

SEC. 21. All acts and parts of acts in conflict with this Act, either special, local or general in nature are hereby repealed.

Approved on the 14th day of February, 1899.

H. B. NO. 123

AN ACT

REQUIRING THE PUBLICATION OF THE PROCEEDINGS OF BOARDS OF COUNTY COMMISSIONERS; REGULATING THE TIME AND MANNER OF APPEALS FROM ORDERS OF SUCH BOARDS; THE DUTIES OF THE CLERK OF THE BOARD IN SUCH APPEALS; REGULATING THE COSTS THEREON; AMENDING PARAGRAPH 19 OF SECTION 1759 AND SECTIONS 1776, 1777, 1778 AND 1779 OF THE REVISED STATUTES OF IDAHO, AND REPEALING SECTION 1784 THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That paragraph 19 of section 1759 and sections 1776, 1777, 1778 and 1779 of the Revised Statutes of the State of Idaho be amended to read as follows:

19. At the adjournment of each session of the board to cause to be published such brief statement as will clearly give notice to the public of all its acts and proceedings, and, semi-annually a statement of the financial condition of the county. Such statement, as well as all other public notices of proceedings of, or to be had before, the board, not otherwise specially provided for, must be published in some newspaper, printed and published in the county, as will be most likely to give notice thereof; and, when in a weekly paper, it must be published in at least two issues thereof, or in at least five issues when the paper is published oftener than weekly; but when there is no newspaper published in the county, copies of such statement must be kept posted for at least twenty days in three public places in the county, one being in a conspicuous place at the court house door.

Section 1776. At any time within *twenty* days after the first publication or posting of the statement, as required by paragraph 19 of section 1759, an appeal may be taken from any act, order or proceeding of the board, by any person aggrieved thereby, or, by any taxpayer of the county when any demand is allowed against the county or when he deems any such act, order or proceeding illegal or prejudicial to the public interests; and no such act, order or proceeding whatever which directly or indirectly renders the county liable for the payment of the sum of *three* hundred dollars or over, or its equivalent, shall be valid until after the expiration of the time allowed for appeal or until such appeal, if taken, shall be finally determined; but there is excepted from the operation hereof all orders for the payment of those sums specially directed by law to be paid, or payments in fulfillment of acts or proceedings made and confirmed according to the provisions hereof.

Section 1777. Such appeal may be taken to the district court, or the judge thereof, of the judicial district of which the county is a part by serving upon the clerk of the board a notice of appeal so referring to the act, order or proceeding appealed from as to identify it; that upon notice in writing, of such appeal being brought by any person to the attention of such judge, he shall fix the earliest time and a place, convenient to himself, for the hearing of such appeal, which may be heard in a summary manner before him, or his court, and, when in his opinion, no serious injury will result from delay, the hearing shall be had during the next term of his court in the county from which the appeal comes. When the appeal is made for the purpose of protecting the interests of the county and of the people, no requirement shall be made of the appellant for security of costs, except that when the district judge shall be of opinion that such appeal is not made in good faith, but is for delay and

vexation, he may require the appellant to enter into an undertaking with good sureties in an amount sufficient to secure the payment of costs, and in all other cases like undertaking shall be required.

Section 1778. When such appeal is taken the clerk of the board must within five days transmit to such district judge a copy of the notice of appeal, the order, decision or proceeding appealed from, together with the accounts, bills, contracts or papers connected therewith and necessary to a proper hearing thereof; or, when this is not practicable, certified copies thereof and of the record.

Section 1779. Upon the appeal, the matter must be heard anew and the act, order or proceeding so appealed from may be affirmed, reversed or modified; and, from the decision of the district court, or judge, either party may, within five days, appeal to the Supreme Court. Either of said courts, or said judge, may make any rules necessary to a proper and speedy hearing in such appeals.

The costs shall be taxed against the losing party except when the appeal is taken in good faith to protect the interests of the county and the people they shall not be taxed against the appellant; and, if it clearly appears that the order or proceeding appealed from was made fraudulently or in reckless disregard of the interests of the county or people, they may be taxed against those commissioners personally who assented to such order or proceeding.

SEC. 2. Section 1784 of the Revised Statutes of the State of Idaho is repealed.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 124.

AN ACT

PROVIDING FOR THE CANCELLATION OF MORTGAGES; AMENDING SECTIONS 3361 AND 3362 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3361 of the Revised Statutes of Idaho be amended so as to read as follows:

Section 3361. A recorded mortgage or chattel mortgage filed as provided by law, may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his personal representative or assignee, acknowledging the satisfaction of the mortgage in the presence of the recorder, who must certify the acknowledgment in form substantially as follows:

"Signed and acknowledged before me this day of in the year of

A. B., Recorder.

SEC. 2. That section 3362 of the Revised Statutes of the State of Idaho be amended so as to read as follows:

Section 3362. A recorded mortgage or chattel mortgage filed as provided by law, if not discharged as provided in the preceding section, must be discharged upon the record by the officer having custody thereof, on the presentation to him of a certificate signed by the mortgagee, his personal representative or assigns, acknowledged or proved and certified

as prescribed by the chapter on "Recording Transfers" stating that the mortgage has been paid, satisfied or discharged.

SEC. 3. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 126.

AN ACT

CONDITIONING UNDERTAKINGS IN ATTACHMENTS; PROVIDING FOR THE POSTING AND PUBLISHING OF NOTICES IN ATTACHMENTS, AND REGULATING THE MANNER OF PRO-RATING AMONG CREDITORS; AMENDING SECTION 4304 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 4304 of the Revised Statutes of the State of Idaho be amended to read as follows, to wit:

Section 4304. Before issuing the writ the clerk must require a written undertaking on the part of the plaintiff, in a sum not less than two hundred dollars, and not exceeding the amount claimed by the plaintiff, with sufficient sureties, to the effect that, if the defendant recover judgment, or, if the attachment be wrongfully issued, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment not exceeding the sum specified in the undertaking; and two days after issuing such writ and delivering it to the proper officer the clerk must post at the front door of the court house and cause to be published in some newspaper published in the county, if there be one, a notice, setting out the title of the cause and the fact that an attachment has been issued against the property of the defendant. Such notice shall be kept posted at least ten days and shall be published, if a weekly paper, in three issues thereof, and if any other than a weekly paper in at least six issues. Any creditor of the defendant, who, within sixty days after the first posting and publication of such notice, shall commence and prosecute to final judgment his action for his claim against the defendant shall share pro rata with the attaching creditor in the proceeds of defendant's property where there is not sufficient to pay all judgments in full against him.

SEC. 2. An emergency existing, this Act shall take effect on and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 127.

AN ACT

PREScribing THE DUTIES OF THE COURT IN INSOLVENCY PROCEEDINGS, AFTER THE FILING OF THE SCHEDULE AND INVENTORY; PROVIDING FOR THE MEETING OF THE CREDITORS OF THE INSOLVENT, AND FOR THE ELECTION OF AN ASSIGNEE AND FIXING HIS DUTIES. AMENDING SECTIONS 5880 AND 5882 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That sections 5880 and 5882 of the Revised Statutes of the State of Idaho are amended to read as follows:

Section 5880. Upon receiving and filing such petition, schedule and inventory, the court, or the judge thereof, must make an order declaring the petitioner insolvent, and directing the sheriff of the county to take possession of all the estate, real and personal, of the debtor, except such as

may be by law exempt from execution, and of all his deeds, vouchers, books of account and papers, and to keep the same safely until the appointment of an assignee. Such order must further forbid the payment of any debts and the delivery of any property belonging to such debtor, to him or for his use, and the transfer of any property by him, and must further appoint a time and place, in open court or at chambers, for a meeting of the creditors to prove their debts and choose an assignee of the estate, which must not be less than thirty days after the making of said order, and shall designate a newspaper or newspapers of general circulation in which publication thereof must be made. Upon the granting of said order, all proceedings against the said insolvent are stayed.

Section 5882. At the time and place appointed for the meeting of the creditors to prove their debts and choose an assignee, those having proven their claims, by filing a verified statement showing the amount, nature and security, if any, must proceed to the election of one assignee. The assignee must be a resident of the county where the insolvent resides, or where he has carried on his business. In electing an assignee, the opinion of the majority in amount of claims must prevail. If the meeting of the creditors is held in open court the clerk of the court must keep a minute of the deliberations of the creditors, and of the election and appointment of the assignee. If the meeting be at chambers, the judge must certify the result of the deliberations of the creditors, and of the election and appointment of the assignee, and shall file said certificate with the clerk of the court. The assignee must file, within five days, unless the time be extended by the court or judge, with the clerk, a bond, in an amount to be fixed by the court, or judge, with two or more sufficient sureties to be approved by the court or judge, and conditioned for the faithful performance of the duties devolving upon him. The bond is not void upon the first recovery, but may be sued upon from time to time by any creditor aggrieved, in his own name, until the whole penalty is exhausted. The sureties on such bond may be required to justify upon the application of any party interested, in the same manner as bail upon arrest in civil cases.

SEC. 2. An emergency existing therefor, this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved on the 14th day of February, 1899.

H. B. NO. 128.

AN ACT

DEFINING CERTAIN PROPERTY, AND THE VALUE THEREOF, EXEMPT FROM EXECUTION,
AMENDING SECTION 4480 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 4480 of the Revised Statutes of Idaho is hereby amended to read as follows:

Section 4480. In addition to the homestead exempted by the Civil Code, the following property belonging to an actual resident of the State, is exempt from execution, except as herein otherwise specially provided.

FIRST. Chairs, tables, desks and books to the value of two hundred dollars, belonging to the judgment debtor:

SECOND. Necessary household, table, and kitchen furniture belonging to judgment debtor, including one sewing machine in actual use in a family or belonging to a woman, stoves, stove pipe and stove furniture, beds, bedding and bedsteads, not exceeding in value three hundred dol-

lars; wearing apparel, hanging pictures, oil paintings and drawings, drawn or painted by any member of the family and family portraits and their necessary frames, provisions actually provided for individual or family use sufficient for six months, two cows with their sucking calves and two hogs with their sucking pigs:

THIRD. The farming utensils or implements of husbandry of a farmer not exceeding in value the sum of three hundred dollars; also four (4) oxen or four (4) horses, or four (4) mules to be selected by claimants and their harness, one cart or wagon, and food for such oxen, horses or mules for six months; also a water right not to exceed one hundred and sixty inches of water, used for the irrigation of lands actually cultivated by him; also the crop or crops growing or grown on fifty acres of land, leased, owned or possessed by the person cultivating the same.

FOURTH. Tools or implements of a mechanic or artisan necessary to carry on his trade, not exceeding in value the sum of five hundred dollars; the notarial seal and records of a notary public; the instruments and chest of a surgeon, physician, surveyor and dentist, necessary to the exercise of their profession, with their scientific and professional libraries; the law professional libraries and office furniture of attorneys, counselors and judges and the libraries of ministers of the gospel.

FIFTH. The cabin or dwelling of a miner, not exceeding in value the sum of five hundred dollars; also his sluices, pipes hose, windlass, derrick, cars, pumps and tools not exceeding in value two hundred dollars; also one saddle animal and one pack animal together with their saddles and equipments belonging to a miner actually engaged in prospecting, not exceeding in value two hundred and fifty dollars.

SIXTH. Two oxen, two horses, or two mules and their harness; and one cart, wagon dray or truck by the use of which a cartman, drayman, truckman, huckster, peddler, hackman, teamster or other laborer habitually earns a living; and one horse with vehicle and harness or other equipments used by physician surgeon or minister of the gospel in making his professional visits with food for such oxen, horses or mules for six months;

SEVENTH. The earnings of a judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of the execution, or levy of attachment, when it appears by the debtor's affidavit or otherwise that such earnings are necessary for the use of his family residing in this State supported wholly or in part by his labor.

EIGHTH. The shares held by a member of a homestead association, or building or loan association duly incorporated, under the laws of the State of Idaho not exceeding in value one thousand dollars—if the person holding the shares is not the owner of a homestead under the laws of this State.

NINTH. All moneys, benefits, privileges or immunities, accruing or in any manner growing out of any life insurance on the life of the debtor, to an amount represented by an annual premium not exceeding two hundred and fifty dollars.

TENTH. All fire engines, hooks and ladders with the carts, trucks and carriages hose, buckets, implements and apparatus thereto appertaining and all furniture and uniforms of any fire company or department organized under any law of this State.

ELEVENTH. All arms, uniforms and accouterments required by law to be kept by any person, also one gun.

TWELFTH. All court houses, jails, public offices and buildings, school houses lots, grounds and personal property appertaining thereto, the fixtures, furniture, books, papers, and appurtenances belonging and pertaining to the court house jail and public offices belonging to any county of this State, or for the use of schools, and all cemeteries, public squares, parks and places, public buildings, town halls, market buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State. No article or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a mortgage thereon.

SEC. 2. Whereas an emergency exists, therefore this Act shall be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 129.

AN ACT

TO PROVIDE FOR THE DISTRIBUTION OF MONEYS COLLECTED FOR LICENSES IN CITIES; TOWNS AND VILLAGES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. When in any city, town, or village, there are two or more school districts, all moneys collected for licenses in such city, town, or village and by law directed to be part of the school fund, shall be divided between such districts in the proportion of the school children in such respective districts as shown by the last preceding census.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 130.

AN ACT

REQUIRING PRISONERS IN THE COUNTY JAILS TO PERFORM MANUAL LABOR, AND DEFINING THE DUTIES OF THE COUNTY COMMISSIONERS AND SHERIFFS IN CONNECTION THEREWITH.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Every male prisoner, 18 years of age or over, who shall hereafter be legally imprisoned in any county jail upon conviction of misdemeanor, shall be liable to and shall be required to perform manual labor in and about the jail or courthouse of the county, for the betterment, improvement, cleanliness, or maintenance of the jail or courthouse or the grounds upon which either of the same is located, not to exceed eight hours for each day of his imprisonment, Sundays and legal holidays excepted; and such manual labor to be so performed shall in all cases be taken and be deemed to be included in and a part of all judgments hereafter given or made directing the imprisonment of such persons in a county jail.

SEC. 2. The county commissioners of each county are hereby empowered, and it is their duty, to make orders and to prescribe proper rules and regulations, consistent with economy and the safe guarding of such prisoners, for the employment of all prisoners referred to in the preceding section.

SEC. 3. The sheriff of each county is hereby required, and it is his duty to faithfully observe and carry out all the orders, rules and regulations of the county commissioners of his county, made or given for the employment of prisoners in his charge as herein provided.

SEC. 4. No prisoner liable to employment as herein provided shall be exempt therefrom except by reason of physical disability.

SEC. 5. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 131.

AN ACT

RELATING TO REVENUE; REPEALING SECTIONS 1124, AND 1462 OF THE REVISED STATUTES OF IDAHO; AMENDING SECTIONS 1410, 1411, 1426, 1428, 1429, 1430, 1451, 1452, 1453, 1475, 1482, 1483, 1485, 1500, 1501, 1515, 1518, 1523, 1524, 1525, 1530, 1532, 1536, 1547, 1548, 1553, 1554, 1567, 1573, SUB-DIVISION ONE OF 1645, SECTION 1845, 1846, 1847, 1848, AND 2180 OF THE REVISED STATUTES OF IDAHO; AND ADDING TO CHAPTER V OF TITLE X OF THE POLITICAL CODE OF IDAHO, THE FOLLOWING SECTIONS, SECTIONS 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, AND 1496; AND ADDING TO CHAPTER IX OF TITLE X OF THE POLITICAL CODE OF IDAHO SECTIONS 1653 AND 1654; AND ADDING TO CHAPTER XI OF TITLE X OF THE POLITICAL CODE OF IDAHO SECTION 1712.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 1124 of the Political Code of Idaho be, and the same is hereby repealed.

SEC. 2. That section 1410 of the Revised Statutes of Idaho be amended to read as follows:

Section 1410. There is hereby levied, for State purposes, for the years 1897, and 1898, respectively, upon all property not exempted by law from taxation, an annual ad valorem tax of two hundred and fifty-three thousand dollars, which shall be paid by the several counties of this State in the proportion which their assessed valuation as shown by their respective assessment rolls bears for the year next preceding that in which said tax is to be paid, to the total assessed valuation of this State for the preceding year; and upon the same property the board of county commissioners of each county, is also hereby authorized and empowered to levy annually, a tax for county expenditure, not exceeding one hundred and seventy-five cents on each one hundred dollars, and, if they deem necessary, a tax of twenty-five cents on each one hundred dollars, to be expended for the repairs and construction of bridges within the county, as the board of county commissioners may order and direct, and such additional and special taxes as the laws of this State may authorize, and require, them to levy: *Provided, however,* That whenever the board of county commissioners levy any tax, such levy must be entered on the records of their proceedings, and their clerk must deliver a certified copy thereof to the assessor, tax collector, auditor and treasurer, each of whom must file said copy in his office.

SEC. 3. That section 1411 of the Political Code of Idaho be amended to read as follows:

Section 1411. The board of county commissioners of each county must on the second Monday of September annually, ascertain the rate of State taxes necessary to be levied in order to secure the amount apportioned to such county by the State Board of Equalization as certified by the State Auditor on each one hundred dollars of taxable property in said county as shown by the last assessment, and must levy the same, and at the same time fix the rate of taxes to be levied for county purposes, designating the

number of cents on each one hundred dollars of taxable property levied for each purpose, and levy the same, and at the same time said commissioners, unless provision shall have been made for the funding, refunding or exchange of the outstanding county warrant indebtedness as provided by chapter VI of title XIII of the Revised Statutes of the State of Idaho as amended, must, whenever any county shall have warrants outstanding and unpaid for the payment of which there are no funds in the county treasury in addition to other taxes provided by law, if such warrants amount to a sum equal to five per cent or more of the value of the taxable property of such county as shown by the last preceding assessment, levy a special tax of ten mills on the dollar as shown by such preceding assessment; if such warrants amount to a sum equal to four per cent and less than five per cent of such taxable property, they must levy a special tax of eight mills on the dollar as shown by such preceding assessment; if such warrants amount to a sum equal to three per cent and less than four per cent of such taxable property, they must levy a special tax of six mills on the dollar as shown by such preceding assessment; if such warrants amount to a sum equal to two per cent and less than three per cent of such taxable property, they must levy a special tax of four mills on the dollar as shown by such preceding assessment; if such warrants amount to one per cent and less than two per cent of such taxable property, they must levy a special tax of two mills on the dollar as shown by such preceding assessment, and if such warrants amount to less than one per cent of such taxable property, then they must levy such special tax on the dollar as shown by such preceding assessment as shall be sufficient to pay such warrants. All moneys arising from such special tax shall be placed in a special fund for the redemption of such warrants which shall be paid exclusively out of said fund, which shall be known as the warrant redemption fund. All moneys in the county treasury at the end of each fiscal year, not needed for current expenses, and applicable thereto, shall be transferred to said warrant redemption fund.

SEC. 4. That section 1426 of the Political Code of Idaho be amended to read as follows:

Section 1426. FIRST. All live stock driven into this State for pasture, grazing, or to market from other States or Territories, if kept by the owner or person in charge thereof in this State to exceed fifteen days shall be assessed as personal property in any county where such live stock may be found at the expiration of said fifteen days, and the tax due on such assessment shall be immediately paid by the owner or person or persons in charge of such transient stock, or secured to the satisfaction of the assessor. The fact that such owner or person in charge has paid taxes on such stock in some other State or Territory shall constitute no bar to the recovery of taxes on such stock in this State on the same property, or any portion thereof for the same year. But this section shall not apply to live stock in transit through this State to some other State or Territory in good faith.

SECOND. The assessor and collector shall be governed as to the amount of taxes to be by him collected on such transient stock and on all personal property, when not secured by lien on real estate, by the State and county rate of the previous year.

THIRD. The assessor and collector may distrain and sell such portion of such transient stock, and all personal property where not secured by lien on real estate, as may be requisite to pay the tax due and the costs

of sale in the manner provided by law for the redress and sale of other personal property.

FOURTH. When the rate is fixed for the year in which such collection is made, then if a sum in excess of the rate has been collected, such excess shall not be apportioned to the State and county, but the whole thereof shall remain in the county treasury, and must be repaid by the county treasurer to the person from whom the collection was made, or to his assignee, on demand therefor.

FIFTH. If a sum less than the rate fixed has been collected, the deficiency must be collected as other taxes on personal property are collected.

SIXTH. The assessor and collector at the time of making his settlement in each quarter must pay into the county treasury all moneys collected by him under the provisions of this section during the quarter, and the auditor must, as soon as the assessment book for the year comes into his hands, note opposite the names of each person from whom such taxes have been collected the amount thereof.

SEVENTH. As soon as the rate of taxation for the year is fixed, the auditor must note, in connection with the entry made under the provisions of the preceding subdivision, the amount of the excess or deficiency.

SEC. 5. That section 1428 of the Political Code of the State of Idaho, be amended to read as follows: Section 1428. All taxable property shall be assessed in the county, city or district, in which it is situated on the second Monday in January, or, if not within the State on that day, on the day of assessment. The assessor must, between the second Monday of January and the first day of July in each year, ascertain the names of all taxable inhabitants and all property in his county subject to taxation, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was, at 12 o'clock M. of the second Monday of January next preceding, or on the day of assessment as aforesaid; but no mistake in the name of the owner or supposed owner of real property shall render the assessment thereof invalid. In assessing solvent credits not secured by mortgage or trust deed, a reduction therefrom shall be made of debts due to bona fide residents of this State.

SEC. 6. That section 1429 of the Political Code of the State of Idaho, be amended to read as follows: Section 1429. He must exact from each person a statement under oath, setting forth specifically all the real and personal property owned by such person, or in his possession or under his control at 12 o'clock M. on the second Monday of January, and as to property not within the State on that day, on the day of assessment. Such statement shall be in writing, showing separately: First. All property belonging to, claimed by, or in the possession or under the control or management of such person. Second. All property belonging to, claimed by, or in the possession, or under the control or management of any firm, of which such person is a member. Third. All property belonging to, claimed by, or in the possession, or under the control or management of any corporation, of which such person is president, secretary, cashier, or managing agent. Fourth. The county, in which such property is situated, or in which it is liable to taxation, and (if liable to taxation in the county in which the statement is made) also the city, the school district, road district, or other revenue districts in which it is situated. Fifth. An

exact description of all lands in parcels, improvements and personal property, including all vessels, steamers and other water crafts; and all taxable State, county, city or other municipal or public bonds, and the taxable bonds of any person, firm or corporation, and deposits of money, gold dust, or other valuables, and the names of the persons with whom such deposits are made and the places in which they may be found. Sixth. All shares of stock in any national banking association located within this State, and all solvent credits unsecured by deed of trust, mortgage or other lien on real or personal property, owned by, or due, or owing to such person or any firm of which he is a member, or any corporation of which he is the president, secretary, cashier or managing agent, deducting from the sum total of such credits and the assessed value of such shares of stock, such debts only unsecured by trust deed, mortgage or other lien on real or personal property, as may be owing by such person, firm or corporation to bona fide residents of this State. No debt shall be so deducted, unless the statement shows the amount of such debt as stated under oath in the aggregate: *Provided*, In case of banks, the statement is not required to show the debt in detail, or to whom it is owing; but the assessor shall have the privilege of examining the books of such banks to verify said statement. Whenever one member of a firm, or one of the proper officers of a corporation, has made a statement showing the property of the firm, or corporation, another member of the firm, or another officer need not include such property in the statement made by him, but his statement must show the name of the person or officer who made the statement in which such property is included. There must be allowed to the assessor and collector by the board of county commissioners, postage stamps in the amount of twenty-five dollars, and necessary stationery for the use of his office in each year.

SEC. 7. That section 1430 of the Political Code of the State of Idaho be amended to read as follows: Section 1430. The board of county commissioners must furnish the assessor with "blank forms" of statements provided for in the preceding section, affixing thereto an affidavit, which must be substantially as follows: I do swear that I am a resident of the county of (naming it); that the above list contains a full and correct statement of all property, subject to taxation, which I, or any firm, of which I am a member, or any corporation, association, or company of which I am president, secretary, cashier, or managing agent, owned claimed, possessed or controlled at twelve M. on the second Monday in January last, or now own, claim, possess, or control and which was not within the State on that day, and which is not already assessed this year: and that I have not in any manner whatsoever transferred or disposed of any property, or placed any property out of said county, or my possession, for the purpose of avoiding any assessment upon the same, or of making this statement, and that the debts therein stated as owing by me are owing to bona fide residents of this State, or to firms or corporations doing business in this State.

The affidavit to the statement on behalf of any firm or corporation, must state the principal place of business of the firm or corporation, and in other respects must conform substantially to the foregoing form.

SEC. 8. That section 1451 of the Political Code of Idaho be amended to read as follows:

Section 1451. The assessor must prepare an assessment book, with

appropriate headings, alphabetically arranged, in which must be listed all property within the county and in which must be specified, in separate columns, under the appropriate head:

FIRST. The name of the person to whom the property is assessed.

SECOND. Land, by township, range, section, or fractional section; and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, locality, and the improvements thereon. When any tract of land is situated in two or more school, road or other revenue districts of the county, the part in each district must be separately assessed, together with the improvements thereon.

THIRD. City and town lots, naming the city or town, and the number of the lot and block, according to the system of numbering in such city or town, and improvements thereon.

FOURTH. All personal property showing the number, kind, and quality; cattle shall be listed as thoroughbred, graded, common stock, beef, milch, and work; horses shall be listed as thoroughbred, graded, stock, stallions, or colts; and sheep shall be listed as imported fine, graded and common, but a failure to enumerate in detail such personal property does not invalidate the assessment.

FIFTH. The cash value of real estate, other than city or town lots.

SIXTH. The cash value of improvements on such real estate.

SEVENTH. The cash value of city or town lots.

EIGHTH. The cash value of improvements on city and town lots.

NINTH. The cash value of improvements on real estate assessed to persons other than the owners of real estate.

TENTH. The cash value of all personal property, exclusive of money.

ELEVENTH. The amount of money.

TWELFTH. The assessment of all property of any railroad, telegraph, or telephone company, or corporation, not situated on the right of way and not "railroad track" or "rolling stock" as the same may be defined by law or the assessment of which may be otherwise provided for by law.

THIRTEENTH. The school, road, and other revenue districts in which each piece of property assessed is situated.

FOURTEENTH. The total value of all property.

FIFTEENTH. The figure one (1) in separate columns, opposite the name of every person liable to pay a poll tax.

SEC. 9. That section 1452 of the Political Code of Idaho be amended to read as follows:

Section 1452. The form of the assessment book must be substantially as follows:

Assessment book of the property of County for the year 18....., assessed to the owner, when known, and if not known; to unknown owner.

Personal property. (Here items may be enumerated in the space to column for number of acres.)	When tax paid.			
	Taxpayer's names.			
	Residence.			
	Subdivison of section.	Real estate other than city and town lots.	Description of Property.	
				Section.
				Township N. or S.
				Range E. or W.
	Fraction.	City or Town Lots.		
	Lot.			
	Block.			
	Number of acres.			
	School, road, or other district in which located.			
\$	Value of real estate other than city and town lots.			
\$	Value of improvements thereon.			
\$	Value of city and town lots.			
\$	Value of improvements thereon.			
\$	Value of improvements on real estate assessed to persons other than owners of real estate.			
\$	Value of personal property.			
\$	Amount of money.			
\$	Total value of all property.			
\$	Deductions on account of debts due bona fide residents.			
\$	Total value of all property for taxation.			
\$	Total value of all property after equalization.			
\$	Total tax.			
\$	Poll tax.			
	Remarks.			

And there shall be added thereto such columns as may be necessary to show the classification of horses and cattle and sheep as provided for in the preceding section and to show any assessment or valuation determined by the State Board of Equalization of railroad, telegraph or telephone lines.

SEC. 10. That section 1453 of the Political Code of the State of Idaho, be amended to read as follows:

Section 1453. On or before the first day of July in each year, the assessor must complete his assessment roll. He and his deputies must take and subscribe an affidavit in the assessment book, to be substantially as follows: I assessor (or deputy assessor, as the case may be) of county, do swear that between the second Monday in January and the first day of July, eighteen hundred and I have made diligent inquiry and examination to ascertain all the property within the county, (or within the subdivision thereof assessed by me as the case may be) subject to assessment by me, and that the same has been assessed on the assessment book, equally and uniformly, according to the best of my judgment, information and belief, at its full cash value; and that I have faithfully complied with all the duties imposed on the assessor under the revenue laws; and that I have not imposed any unjust or double assessment through malice or ill will or otherwise; nor allowed any one to escape a just and equal assessment through favor or reward or otherwise. But the failure to take or subscribe such affidavit as required by this title, shall not in any manner affect the validity of the assessment.

SEC. 11. That section 1462 of the Political Code of Idaho be and the same is hereby repealed.

SEC. 12. That section 1475 of the Political Code of Idaho be amended to read as follows:

Section 1475. The board of commissioners of each county must meet on the second Monday of July in each year, to examine the assessment book and equalize the assessment of property in the county. It must continue in session for that purpose from time to time until the business of equalization is disposed of.

SEC. 13. That section 1482 of the Political Code of Idaho be, and is hereby amended to read as follows: Section 1482. The board may use the abstract and all other information it may gain from the records of the county recorder or elsewhere in equalizing the assessment of the property of the county, and it shall be the duty of the assessor to enter upon the assessment book any property which has not been previously assessed by him, and any such assessment made and entered into the assessment book, as prescribed in this section, has the same force and effect as if made and entered by the assessor before the delivery of the assessment book to the clerk of the board. The tax collector must collect such subsequent assessments in the same manner and receipt and account for the same in the same manner as assessments placed on the assessment book prior to its delivery to the clerk of the board.

SEC. 14. That section 1483 of the Political Code of Idaho be amended to read as follows:

Section 1483. During the session of the board, it may direct the assessor to assess any taxable property that has escaped assessment, or increase any valuation or add to the amount, number or quantity of prop-

erty when a false or incomplete list has been rendered, and make and enter new assessments (at the same time cancelling previous entries), when any assessment made by him is deemed by the board so incomplete as to render doubtful the collection of the tax; but where they have not appeared the clerk must notify the persons interested by letter deposited in the postoffice or express, post paid and addressed to the person interested at least ten days before action taken of the day fixed when the matter will be investigated, which shall be the fourth Monday of July.

SEC. 15. That section 1485 of the Political Code be amended to read as follows:

Section 1485. On the fourth Monday of July the board of county commissioners must meet and continue in session until all the parties appearing have been heard, and until the proposed additional assessment; changes and corrections have been acted upon, and the board may subpoena witnesses and hear evidence as provided upon application for reduction of assessments; and the clerk of the board must keep a record of their proceedings, and as auditor he may receive from the tax collector the original assessment book, and may retain the same for the time necessary to enter the additional assessment, changes and corrections ordered by the board, and at the same time it shall be the duty of the county auditor to prepare an abstract upon blanks furnished by the State Board of Equalization showing the total number of items or pieces of property and the total value thereof, in each class, as contained in said assessment book as corrected by the board of county commissioners and transmit such abstract by registered mail to the State Auditor on or before the first Monday of August.

SEC. 16. That chapter five of title ten of the Political Code of Idaho be amended by adding thereto after section 1485, the following:

Section 1486. The State Board of Equalization shall consist of the Governor, Secretary of State, Attorney General, State Auditor, and State Treasurer.

The Governor shall be chairman, and the State Auditor secretary of the Board. Any three members, including the chairman and secretary, shall be a quorum for the transaction of business.

The said Board shall meet at the State Capitol on the second Monday of August of each year, and if all the abstracts hereinafter provided for and required to be transmitted to the State Auditor, have been received by the State Auditor, such abstracts shall be laid before said Board and said Board shall then and there proceed to equalize the valuation of property throughout the State as hereinafter provided.

In case the said abstracts have not all been received by the State Auditor by or before the said second Monday of August the said Board shall adjourn from day to day until such abstracts are received.

Should said abstracts not all be received by the second Monday of August, then and in that case the Board may issue subpoenas for any officer or officers by this Act required to transmit such abstracts who have failed or neglected to transmit the same, requiring such officer or officers to appear before the board forthwith, and produce the abstracts herein provided for. The board shall proceed to equalize valuations as hereinafter provided, so soon as such abstracts are received.

The sheriff of Ada County is hereby designated as the officer by whom such subpoenas shall be served, and for such services said sheriff shall be

paid the same compensation as is by law provided for similar services in civil cases.

The officer so failing or neglecting to transmit such abstracts shall be liable upon his official bond for the compensation paid said sheriff.

Section 1487. The State Board shall cause to be prepared forms of lists of property, for the use of assessors in assessing in the several counties of the State, by which all property, real and personal, shall be arranged in classes, and the aggregate of all such classes shall embrace all property, of every kind and description, subject to taxation, except such property as is by this Act made assessable by the State Board of Equalization.

The county auditor shall prepare an abstract upon blanks furnished by the Board of Equalization, showing the total number of items or pieces of property, and the total value thereof, in each class, as contained in said assessment book, as corrected by the board of county commissioners, and transmit such abstract by registered mail to the State Auditor, on or before the fourth Monday of July.

Section 1488. The State Board shall equalize the valuations of property throughout the State as follows:

FIRST. By classes, as shown by the abstracts transmitted from the various counties, county by county, and in such equalization said Board shall have power to increase the total valuation of any class of property in any county as shown by the abstract from that county when in the opinion of the Board the valuation of that class, appearing in such abstract, is not just and equal as compared with the valuation of other classes of property in that county, because of its being less than the true valuation, as determined by such comparison and the said Board shall have power to decrease the valuation of any class of property, when in the opinion of the Board the valuation of that class of property, appearing in the abstract is not just and equal, as compared with other classes of property in that county, because of its being in excess of the true valuation as determined by such comparison.

SECOND. The State Board shall have power to add to, or deduct from the aggregate valuation, as shown by such abstracts, of all property in any county such a percentage of such aggregate valuation as may be necessary in the opinion of the Board to establish uniformity and equality of valuations among the several counties of the State. The rate of the percentage of increase or decrease made by the Board, either in equalizing among the classes of any county or in equalizing the aggregates of counties shall, in all cases be even and not fractional. The increase or decrease made by the Board in equalizing among the counties by aggregate, shall, in no case increase or decrease the total valuation of the State, as shown by the total sum of all the valuations as stated in the abstracts returned, by an amount exceeding two per centum of said total aggregate valuation of the State.

Section 1489. Within five days after the State Board shall have completed the equalization of valuations as by this Act provided, the State Auditor as secretary of said Board shall transmit by registered mail to the county auditor of each county, a certified statement showing the changes (if any) that have been made by said Board in the valuation of any class or of all classes of property in the county to which such statement is sent, or the changes in the aggregate valuation of all property in said county. The county auditor to whom such statement is sent

shall forthwith upon receipt thereof proceed to enter in the assessment book of his county for the then current year, the changes (if any) that have been certified in such statement. When the entries herein required to be made by the county auditor have all been made the county auditor shall forward to the State Auditor an affidavit setting forth the fact that all changes certified to him by the State Auditor have been entered as required by law.

The State Board shall prescribe such rules and regulations not inconsistent with the provisions of this Act, as shall be necessary to carry this Act into effect; for the government of assessors in matters affecting the performance of the duties of the State Board and for the government of county auditors in the performance of their duties under this Act; and generally for the government of county assessors and county auditors as may be required in connection with the equalization of valuations by said State Board. The said Board shall provide for the use of the Board, and of county assessors and county auditors, such forms of assessment lists, statements and abstracts and other blanks and forms as may be needful to carry into effect the provisions of this Act.

The State Board shall keep a record of all its proceedings, which, when the Board is not in session, shall be in the custody of the State Auditor, and be at all times subject to inspection by the public.

Section 1490. The State Board of Equalization shall have exclusive power to assess and value for purposes of taxation all telegraph, and telephone lines, and the "railroad track" and "rolling stock" of all persons, companies or corporations, owning, operating or constructing any telegraph or telephone line, or railroad, wholly or partly within this State. For the purposes of this Act "railroad track" shall be deemed to include right-of-way, superstructures on the right-of-way, whether on main, side, or second track, or turnouts and the stations and improvements thereon belonging to, used, operated or occupied by any person, company or corporation, owning, operating or constructing any line of railroad, wholly or partly within this State.

For the purposes of this Act "rolling stock" shall be deemed to include all movable property owned, used, occupied or operated in connection with any railroad, wholly or partly within this State. All property belonging to any person, company or corporation, owning, operating or constructing any railroad wholly or partly within this State, not included within the terms "railroad track" or "rolling stock" shall be assessed by county assessors as other property is assessed in this State.

Section 1491. The president, secretary, superintendent, or other principal accounting officer of any person, company or corporation, owning, constructing or operating any telegraph or telephone line or railroad wholly or partly within this State shall list for assessment and taxation all the following described property belonging to, owned, occupied or operated by such person, company or corporation in this State, viz: The whole number of miles of telegraph or telephone line, the number of wires, the number of "instruments," the number of miles of railroad (main, side and second tracks and turnouts being separately stated) the property held for right-of-way, the amount and character of improvements, and the stations located on the right-of-way; and under the head of "rolling stock" shall list the number of locomotives of all classes, passenger cars of all classes,

sleeping cars, dining cars, express cars, baggage cars, stock cars, platform cars, wrecking cars, pay cars, hand cars, and all other kinds of cars.

Such lists shall specifically show the number of miles of such telegraph or telephone line or of "main track" in each county, district, city, and incorporated town or village through which such line or railroad passes. And all such lists shall be verified by the oath of such president, secretary, superintendent, or other principal accounting officer making the same.

Section 1492. The State Board shall determine the total value of each telegraph or telephone line and of all instruments used in connection therewith, and shall apportion such total value among the several counties into or through which such line passes, in the proportion which the number of miles of such line situated in each of such counties respectively bears to the entire length of such line within the State.

And the said Board shall determine the total value of each railroad, by adding together the value of the "railroad track" and "rolling stock" thereof, and shall apportion such total value among the several counties into or through which the main line of such railroad passes, in the proportion the total length of such main line within the State bears to the length of such main line in the several counties respectively.

After the Board shall have determined such total valuation as aforesaid, said Board shall assess such telegraph, telephone and railroad property for each mile thereof; which assessed value per mile shall be determined by dividing the total valuation, as determined by said Board, by the number of miles of main line, or main track, within the State.

Section 1493. When the total valuation of telegraph, telephone and railroad property has been determined and assessed and apportioned as provided in section 1492, the State Auditor shall prepare a statement to be sent to each county in which such telegraph, telephone or railroad property may be situated, specifying the number of miles of such line or road within the county, the assessed value per mile and the number of miles of main line or main track in each district, city, or incorporated town therein. Such statement shall be certified by the State Auditor and sent to the county auditor of each county in which any part of such telegraph, telephone or railroad property may be situated, and shall be sent at the same time that the statements provided for in section 1489 of this Act are transmitted.

The county auditor of each county to which such statement is sent shall immediately enter in the assessment book for that year the amount of such telegraph, telephone or railroad property so certified, and the assessed value thereof to the proper owner, and said county auditor shall also divide and adjust among the several districts, cities and incorporated towns and villages the proper amount and value of such property falling within each respectively. The county auditor shall make and transmit to the State Auditor an affidavit showing that such duties have been performed as herein required, and shall also forward to the State Auditor a certificate showing the total assessed valuation of such county after such changes have been made.

Section 1494. The State Board shall meet for the purpose of valuing and assessing telegraph, telephone and railroad property on the second Monday of August of each year, and shall continue in session from day to day thereafter until such valuation and assessment is completed.

Section 1495. In case the president, secretary, superintendent, or other principal accounting officer, of any person, company or corporation owning,

operating or constructing any telegraph or telephone line or railroad wholly or partly within this State, fail, neglect or refuse to forward to the State Auditor the list required by section 1491 of this Act, by or before the second Monday of August of each year, then and in that case, the State Board shall proceed to assess and value, and shall assess and value the property of such persons, company or corporation.

The State Board of Equalization must complete the assessment, valuation and equalization of all property hereinbefore mentioned on the fourth Monday in August of each year, and on that day it shall be their duty to ascertain the total assessed valuation of all property subject to taxation in the State. The State Board of Equalization shall on that day determine the amount of the State tax which each county must pay to the State by apportioning the aggregate tax among the several counties of the State in the exact proportion that the total assessed valuation of each county, as shown by the assessment roll thereof for the year next preceding, bears to the aggregate assessed valuation of all the counties of this State for such preceding year; and for the purpose of ascertaining such several and aggregate valuations, the board shall examine the annual reports of valuations made by the county auditors to the State Auditor, and such other reports as they may deem necessary.

The amount of State tax so found to be due from each county shall be certified to the county auditors of the several counties by the State Auditor, and said county auditors shall file the same with the board of county commissioners.

Section 1496. Any officer required by this chapter to perform any service who shall fail, neglect or refuse to perform such duty, shall be guilty of a misdemeanor, and shall be punished by a fine not less than one hundred dollars, and not more than three hundred dollars.

SEC. 17. That Section 1500 of the Political Code of Idaho be amended to read as follows:

Section 1500. The county auditor must as soon as he shall receive notice from the State Board of Equalization by the certificate of the State Auditor of any changes in the assessed valuation, and of the assessment of railway, telegraph, or telephone property in said county, make the corrections or changes ordered by the State Board of Equalization, add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment book and make report thereof, to the board of county commissioners, for the purpose of making the county and other tax levies thereon, and when such levy or levies have been made, he shall carry out on the assessment book in a separate money column, the totals of taxes composed of State, county and other taxes to each person.

SEC. 18. That section 1501 of the Political Code of Idaho be amended to read as follows:

Section 1501. The county auditor must on or before the second Monday of September in each year prepare from the "assessment book" of such year as finally corrected and equalized, a statement showing in separate columns:

1. The total value of all property;
2. The value of real estate;
3. The value of the improvements thereon;
4. The value of personal property, exclusive of money;

5. The amount of money.

SEC. 19. That section 1515 of the Political Code of Idaho be amended to read as follows:

Section 1515. Within ten days after the receipt of the assessment book, the tax collector must publish a notice specifying that taxes will become delinquent on the first Monday in January next thereafter, and that unless paid prior thereto three per cent will be added thereon, and six per cent will be added if not paid after the first Monday in March and prior to sale, with such other costs as may be provided by law besides interest at twelve per cent. per annum from said second Monday of January.

SEC. 20. That section 1523 of the Political Code of Idaho be amended to read as follows:

Section 1523. On the first Monday in January of each year all unpaid taxes are delinquent, and thereafter the tax collector must collect thereon, for the use of the county, an addition of three per cent; if paid before the first Monday of March, and six per cent. and other costs provided by law if paid subsequent to said last date and prior to sale, together with interest at the rate of twelve per cent. per annum from said first Monday of January.

SEC. 21. That section 1524 of the Political Code of Idaho be amended to read as follows:

Section 1524. No taxes must be collected or received from the first Monday of January to the fourth Monday of January, inclusive, in each year.

SEC. 22. That section 1525 of the Political Code of Idaho be amended to read as follows:

Section 1525. The tax collector must make out and on the fourth Monday in January deliver to the county auditor a complete delinquent list of all property and persons then owing taxes.

SEC. 23. That section 1530 of the Political Code of Idaho be amended to read as follows:

Section 1530. On or before the fourth Monday in May, the tax collector must publish the delinquent list which must contain the names of the persons, and a description of the property delinquent, and the amount of taxes and costs due opposite each name and description, with the taxes due on personal property, added to taxes on real estate, where the real estate is liable therefor, or the several taxes are due from the same person for the purpose of making which publication the board of county commissioners may allow the publisher not exceeding the sum of twenty-five cents for each description of property advertised.

SEC. 24. That section 1518 of the Political Code of the State of Idaho be and is hereby amended to read as follows: Section 1518. He must give a receipt to the person paying any tax, specifying the amount of the assessment and the tax paid with a description of the property assessed, and he must preserve the stubs from which such receipts are detached and deliver the stubs to the auditor when making his annual settlement with him. It shall be the duty of the board of county commissioners of each county to have the tax receipts printed; the style of printing of such receipts must be different for each year, and the year for which they are intended must be printed in bold type on the receipts as well as on the stubs. No receipts for property taxes other than those mentioned in this

section must be used or given by the tax collector for the payment of any such taxes.

Section 1532. The publication must be made in a newspaper, or supplement thereto, once a week for three consecutive weeks, published in the county; if it cannot be so published, then by posting in not less than three public places in the county, one of which shall be at the court house door.

SEC. 25. That section 1536 of the Political Code of Idaho be amended to read as follows:

Section 1536. The collector must collect in addition to the taxes due on the delinquent list and the penalty added thereto by law twenty-five cents on each lot, piece or tract of land separately assessed, and on the assessment of personal property which must be paid into the county treasury.

SEC. 26. That section 1547 of the Political Code of Idaho be amended to read as follows:

Section 1547. On filing the certificate with the county recorder the lien of the State vests in the purchaser and is only divested by the payment to him or to the tax collector for his use, of the purchase money, and the penalties and interest as in this Act provided.

SEC. 27. That section 1548 of the Political Code of Idaho be amended to read as follows:

Section 1548. A redemption of the property sold may be made by the owner or any party in interest within two years from the date of the purchase.

SEC. 28. That section 1553 of the Political Code be amended to read as follows:

Section 1553. If the property is not redeemed within two years from the sale, the collector or his successor in office must make to the purchaser or his assignee a deed to the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The collector is entitled to receive from the purchaser two dollars for making such deed.

SEC. 29. That section 1554 of the Political Code of Idaho be amended to read as follows:

Section 1554. In all cases where real estate has been or may hereafter be sold for delinquent taxes, and the county has become the purchaser, and has not disposed of the same, the person whose estate has been or may hereafter be sold, or his heirs, executors, administrators, or other successors in interest at any time after the time of purchase thereof by the county, and before the county has disposed of the same, has the right to redeem such real estate by paying to the county treasurer of the county wherein the real estate is situated the amount of taxes and penalties due thereon at the time of said sale, with interest thereon at the rate of twelve per cent. per annum, and also all taxes that were a lien upon said real estate at the same time said taxes became delinquent; and also for each year since the sale for which taxes on said land have not been paid an amount equal to the percentage of the State and county tax for that year, upon the value of said real estate assessed for the year of the sale, with interest from the first day of February of each of said years respectively, at the same rate; and also all costs, expenses and pen-

alties as herein in this Act provided, which may have occurred by reason of such delinquency and sale, and the costs and expenses of such redemption. The county auditor shall on the application of the person desiring to redeem, make an estimate of the amount to be paid and must give him duplicate certificates specifying the several amounts thereof, one of which certificates must be delivered to the county treasurer, together with the money; and the county treasurer must execute a deed to the redemptioner. The county treasurer must settle for the moneys received as for other State and county moneys. The treasurer and auditor must be paid by the redemptioner for making out said estimates and deed, the sum of one dollar each, upon the payment of the money specified in said certificate, and the giving of the deed aforesaid by the treasurer, any deed or certificate of sale that may have been made to the county becomes null and void, and all right, title, and interest acquired by the county under or by virtue of the tax sale ceases and determines. Whenever property sold to the county pursuant to the provisions of this chapter, shall be redeemed, the moneys received on account of such redemption shall be distributed between the State and the county, and to the respective funds, in the same manner as if the same had been paid in the first instance to the tax collector, but no redemption shall be allowed after the expiration of five years from the date of any such tax sale, and from and after the expiration of said five years the title to said property shall vest in said county.

SEC. 30. That section 1567 of the Political Code of Idaho be amended to read as follows:

Section 1567. The tax collector must annually on the first Tuesday after the first Monday of May attend at the office of the auditor with the delinquent list, and the auditor must then carefully compare the list with the assessments of persons and property not marked as "paid" on the assessment book, and when taxes have been paid, must note the fact in the appropriate column in the assessment book.

SEC. 31. That section 1573 of the Political Code of Idaho be amended to read as follows:

Section 1573. Interest at the rate of twelve per cent. per annum must be collected on such delinquent taxes from the time such taxes first became delinquent, and on the penalty from the time the same attached. This section shall apply both as to taxes bought in by or sold to individuals as well as to sales made to the county.

SEC. 32. Subdivision one, of section 1645, of the Revised Statutes is amended to read as follows:

FIRST.—From each proprietor or keeper of a billiard, pool or bagatelle table, or any other kind of a table on which games are played with the ball and cue, for each table, fifteen dollars per quarter, and for a bowling alley, five dollars per quarter, for each alley; but no license can be granted for a term less than three months.

SEC. 33. The following is added to title ten, chapter nine, and shall be section 1653 of the Revised Statutes.

Section 1653. All quarterly license taxes shall become due on the first days of January, April, July and October of each year, or on commencing any business or occupation on which such tax is imposed.

In the former case the tax shall be reckoned for one quarter; in the latter case it shall be reckoned proportionately from the first day of the

month in which the liability to such tax commenced to the first day of the quarter then next ensuing. At the expiration of any license in force at the time of the passage of this Act, the person liable to such tax shall take out a license for the unexpired portion of the fiscal quarter in which such license expires, paying therefor proportionately.

SEC. 34. Add to title X, chapter 9, of the Revised Statutes, as section 1654, the following:

Section 1654. All persons selling vinous, fermented, malt, mixed or distilled liquors in quantities not less than one gallon shall pay, in advance, a license of one hundred dollars semi-annually.

SEC. 35. The section 1845 of the Political Code of Idaho be amended to read as follows:

Section 1845. Whenever there shall be two hundred dollars or more, or sufficient to pay the warrant first in priority of date of issue remaining unpaid on the warrant register in his office, to the credit of any fund in the county treasury against which there are warrants outstanding the county treasurer must give notice in some newspaper published in his county, or if none is published, then by written notice posted upon the court house door, stating therein that he is ready to pay such warrants.

Ten days from the first publication, or posting of such notice, such warrants shall cease to draw interest.

SEC. 36. That Section 1846 of the Political Code of Idaho be amended to read as follows:

Section 1846. In advertising warrants under the provisions of this section in any newspaper, the treasurer must not publish the warrants in detail, but give notice only that county warrants issued prior to such a date stated in the notice are payable. When a part only of the warrants issued on the same day are payable the treasurer must designate such payable warrants in the advertisement.

SEC. 37. That section 1847 of the Political Code of Idaho be amended to read as follows:

Section 1847. Warrants drawn on the treasury and properly attested are entitled to preference as to payment out of moneys in the treasury properly applicable to such warrants according to the priority of time in which they are issued.

The time of presenting such warrants must be noted by the treasurer and upon the receipt of the moneys into the treasury, not otherwise appropriated, he must set apart the same or so much thereof as is necessary for the payment of such warrant. On the first Monday of each month the county treasurer must present to the county auditor for his inspection the county treasurer's warrant register and must in company with the auditor compare the same with the county commissioners' records of claims allowed by them against the county. If any warrant which has been registered shall differ in amount from the claims so allowed by the commissioners, the county treasurer must not pay the same but must report such warrant at the next meeting of the county commissioners for their action.

SEC. 38. That section 1848 of the Political Code of Idaho be amended to read as follows:

Section 1848. Should warrants not be presented for payment within sixty days from the date of the notice hereinbefore provided for, the fund set aside for the payment of the same must be applied by the treasurer to the payment of the unpaid warrants next in order in date of issue.

The board of commissioners may, on application and presentation of warrants properly endorsed which have been advertised, pass an order directing the treasurer to pay them out of any money in the treasury not otherwise appropriated.

SEC. 39. That Chapter XI of Title X, Revenue or the Political Code of Idaho be amended by adding thereto the following:

Section 1712. All taxes levied and collected in each county for county purposes, including such special taxes as are or may be authorized by law, all fines and forfeitures, all receipts from toll roads, bridges and ferries, and all poll taxes shall, after the amount belonging to the State has been deducted, be paid into and constitute a fund to be called the "Current Expense Fund" which shall be used for the payment of the current expenses of the county for the current year: *Provided:* That nothing in this section shall be so construed as to interfere with or relate to taxes levied for school purposes, or school moneys received from the sale of school lands or otherwise, or taxes levied for the payment of interest on or redemption of county bonds or county warrants.

The treasurer of each county shall immediately transfer all funds in his hands belonging to the county, except the road or bridge fund, the school fund and such special funds as may have been established for the payment of interest on and redemption of county bonds and warrants to said current expense fund, and the county auditor shall make proper entries thereof in the books of his office.

SEC. 40. That section 2180 of the Political Code of Idaho be amended to read as follows:

Section 2180. The per capita and ad valorem tax, when levied by the board of county commissioners for the care and maintenance of the poor of the county, must be collected by the tax collector in the same manner and at the same time as other county taxes, and when collected must be paid into the "Current Expense Fund" of the county and shall be drawn therefrom as other current expenses.

SEC. 41. An act entitled "An act to provide for the assessment and collection of taxes in Cassia and Owyhee Counties; approved February 8, 1883," and all acts and parts of acts in conflict or inconsistent with this Act are hereby repealed.

SEC. 42. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved the 16th day of February, 1899.

H. B. NO. 132.

AN ACT

CONSTITUTING EACH INCORPORATED CITY, TOWN OR VILLAGE A SEPARATE ROAD DISTRICT;
AMENDING SECTION 887 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 887 of the Revised Statutes of the State of Idaho is amended to read as follows:

Section 887. Each incorporated city town or village in this State constitutes a separate road district under this title, and the city council of each city, and the board of trustees of each town or village, as far as relates to their city, town or village, have the powers conferred, and must perform the duties imposed upon the board of county commissioners of their respective counties by this chapter. Each city council and board of trus-

tees must appoint a road overseer, who must within such city, town or village, have the powers conferred, and perform the duties imposed by this chapter upon road overseer; and each city council or board of trustees may remove the overseer, or may require a bond or settlement from him at any time, and must fill any vacancy in such office; and regulate the length grade and size of bridges, causeways and culverts; may provide for the construction and maintenance of sewers, sidewalks and street crossings, and the grade and construction and maintenance of streets and alleys, and have all the powers as to streets and alleys conferred by their respective charters or acts of incorporation, and by this chapter.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 133.

AN ACT

PREScribing THE MANNER OF FILING COMPLAINTS IN CIVIL ACTIONS; AMENDING SECTION 4139 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 4139 of the Revised Statutes of the State of Idaho is amended to read as follows:

Section 4139. The clerk must indorse on the complaint, the year, month, day, hour and minute that it is filed, and at any time within one year thereafter the plaintiff may have a summons issued; and if the action be brought against two or more defendants who reside in different counties, may have a summons issued for each of said counties. But at any time within the year after the complaint is filed, the defendant may in writing, or by appearing and answering or demurring, waive the issuing of summons, or if the action be brought upon a joint contract on two or more defendants, and one of them has appeared within the year, the other or others may be served or appear after the year, at any time before trial.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 134.

AN ACT

TO ANNEX A PART OF BLAINE COUNTY TO CUSTER COUNTY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 1 of an act to amend section 1 of an act entitled, "An act to amend section 1 of an act entitled, 'An act to create and organize the County of Custer,'" approved February 4th, 1889, is hereby amended to read as follows:

Section 1. That all those portions of the Counties of Lemhi, Alturas and whatsoever other territory in this State, embraced and included within the following boundaries, to wit: Commencing at the confluence of the Pahsimeroi river with the Salmon river and running thence up the Pahsimeroi river to the mouth of Big creek; thence up Big creek, and on a line from the head thereof with the general course of said creek to the summit of the divide between the waters of the Pahsimeroi and Lemhi rivers; thence

southeasterly on the summit of said divide to a point due west from the headwaters of said Little Lost river; thence due east to the headwaters of said Little Lost river; thence down Little Lost river to the point where the trail leading to Pass creek crosses said Little Lost river; thence in a direct line to the head of Pass creek; thence southeasterly along the summit of the divide between the waters of Little and Big Lost rivers to a point where the summit of said divide intersects the north boundary line of township 4 N. and range 27 E., Boise meridian; thence west along said north boundary line of township 4 N. to the intersection with the range line of ranges 23 and 24 east; thence north along said line between ranges 23 and 24 E. to the summit of the divide that separates the waters of Antelope creek from those of Little Wood river; thence westerly along and upon the summit of the ridge of mountains dividing the headwaters of the East Fork of the Salmon river, from the waters of the Little or Big Wood river, and continuing westerly on said divide between the East Fork of Salmon and Wood rivers, to the main Salmon river, thence along said Salmon river to the mouth of Fall creek, a stream entering the Salmon river at a point about fifteen (15) miles northerly from Sawtooth City, thence up said Fall creek to Pettit lake in a right line to the right of a creek entering said lake at the west end thereof, thence up said last mentioned creek to the summit of the Sawtooth mountains, thence northerly along the summit of the Sawtooth mountains to the divide which separates the water flowing into the South Payette river and Bear Valley creek from those flowing into the main Salmon river and Cape Horn creek, thence along said divide to the Middle Fork of the Salmon river, thence down the Middle Fork of the Salmon river, to the mouth of Loon creek, thence up Loon creek to the mouth of Warm Spring creek, thence up Warm Spring creek, and to the divide which separates the waters of Yankee Fork on the south and Loon and Deep creeks on the north, and following said divide in an easterly direction around the head of Panther creek, to the divide between Hat creek and Ellis creek, thence on the divide between Hat and Ellis creeks in an easterly direction to the Salmon river, thence up the main channel of said Salmon river to the place of beginning.

SEC. 2. At the next general election, the qualified electors who have resided for ninety days prior to said election in that portion of Blaine County proposed to be cut off from said county and annexed to Custer, by section one of this Act, shall vote upon the question of the division of said Blaine County and the annexation to Custer County of such territory.

Such vote shall be by ballot in the following form, viz: "For division and annexation yes;" and "against division and annexation yes." The vote shall be returned and canvassed, as provided by law in other cases; and this Act shall take effect only in case a majority of such qualified electors of such territory, voting on such question, shall vote in the affirmative: *Provided*, That the part of the territory herein proposed to be stricken off from Blaine County shall be held to pay its relative proportion of all the liabilities of said Blaine County existing at the time the vote on such division shall be canvassed, and the result officially declared by the commissioners of Custer County.

SEC. 3. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 135.

AN ACT

REGULATING APPEALS FROM THE DISTRICT COURT TO THE SUPREME COURT; AMENDING SECTION 4807 REVISED STATUTES OF IDAHO BY ADDING SUBDIVISION FOUR THERETO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 4807 of the Revised Statutes of the State of Idaho, be amended to read as follows:

Section 4807. An appeal may be taken to the Supreme Court, from a district court.

1. From a final judgment in an action or special proceeding commenced in the court in which the same is rendered, within one year after the entry of judgment. But an exception to the decision or verdict on the ground that it is not supported by the evidence, can not be reviewed on an appeal from the judgment, unless the appeal is taken within sixty days after the rendition of the judgment.

2. From a judgment rendered on an appeal from an inferior court, within ninety days after the entry of such judgment.

3. From an order granting or refusing a new trial; from an order granting or dissolving an injunction; from an order refusing to grant or dissolve an injunction; from an order dissolving or refusing to dissolve an attachment; from an order granting or refusing to grant a change of the place of trial; from any special order made after final judgment; and from an interlocutory judgment in actions for partition of real property, within sixty days after the order or interlocutory judgment is made and entered on the minutes of the court, or filed with the clerk.

4. From a judgment rendered as an appeal from an order, decision or action of a board of county commissioners, within ninety days after the entry of such judgment.

SEC. 2. An emergency existing therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 136.

AN ACT

TO PROVIDE FOR THE ANNEXATION OF A PART OF LEMHI COUNTY TO FREMONT COUNTY, AND TO SUBMIT THE QUESTION OF ANNEXATION TO THE ELECTORS OF THE TERRITORY PROPOSED TO BE CUT OFF AND TO PROVIDE FOR A PROPER APPORTIONMENT OF THE INDEBTEDNESS OF LEMHI COUNTY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. All that portion of the County of Lemhi embraced within the following boundaries, to-wit: beginning at the southeast corner of township eleven north of range thirty-four east Boise meridian; and running thence due west on the line between townships ten and eleven north to the southwest corner of township eleven north of range thirty-one east Boise meridian; thence due north to the boundary line between the States of Idaho and Montana; thence southeasterly along the boundary line between the States of Idaho and Montana to a point where the said boundary line is intersected by the range line between townships thirty-four and thirty-five east of the Boise meridian; and thence due

deduct the amount of such cash from the amount of the debt to be apportioned.

They shall prepare a report in duplicate, and file the same with the auditors of the Counties of Lemhi and Fremont, to be submitted to the board of county commissioners of each of said counties.

SEC. 4. In case it should be ascertained by the result of the election in 1896, herèinbefore provided for, that said territory has been stricken off from Lemhi County, and attached to Fremont County, the county commissioners of Fremont County must cause warrants to be issued against the Lemhi County fund, and in favor of Lemhi County, in sums or not to exceed five hundred dollars each, to the full amount of the indebtedness shown by the said accountant's report to be due from Fremont to Lemhi County, and deliver the same to the treasurer of Lemhi County. Said warrants must be dated as of the date when this Act takes effect, and must bear interest at the rate of seven per cent. per annum from their date until paid.

SEC. 5. The county commissioners of Fremont County must, at the time of making their levy of taxes for each year, make a proper and sufficient levy for the redemption of the warrants provided for in the preceding section, which levy shall not be less than cents on each one hundred dollars, and the proceeds of such levy of taxes must be apportioned by the county treasurer of said county to a fund to be called the "Lemhi County Fund," and paid out by him, only for the redemption of the warrants herèinbefore provided for.

SEC. 6. Should the accountants herèin provided for, fail to agree upon their report, or upon any fact which they are required to ascertain and determine, the judge of the district court of the fifth judicial district, shall, upon proper notification appoint a competent person to act with said accountants, and decide and determine all matters of difference.

SEC. 7. The accountants herèinbefore provided for must be allowed reasonable compensation for their services and expenses, to be paid by the county which they respectively represent. In case a third party shall be appointed he must be paid by the Counties of Lemhi and Fremont in equal proportions.

SEC. 8. All acts and parts of acts in conflict with any of the provisions of this Act are hereby repealed.

SEC. 9. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 138.

AN ACT

TO PROVIDE FOR THE PROTECTION OF FISH AND GAME AND REPEALING ALL OTHER ACTS IN FORCE RELATIVE TO THE PROTECTION OF FISH AND GAME, EXCEPT THE ACT RELATIVE TO BUFFALO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be unlawful for any person or persons to kill, ensnare or trap any moose, caribou, mountain sheep, mountain goat, elk or mongolian pheasant, at any time except between the first day of September and the first day of October of each year.

SEC. 2. It shall be unlawful for any person or persons to kill, ensnare or trap any deer or antelope except between the first day of September

and the thirty-first day of December of each year, or to kill, ensnare, or trap any of the animals mentioned in this section, at any time of the year for the purpose of buying or selling their hides or carcasses or to ship, transport, carry or have in possession any such animals between the dates within which the killing, ensnaring, or trapping of such animals is prohibited: *Provided*, That any of the animals mentioned in this and the preceding section may be taken alive, which shall be for scientific purposes only.

SEC. 3. No person shall kill or wound, ensnare or trap any beaver or kitten beaver within the State of Idaho for a period of five years from and after the approval of this Act. Any person or persons offending against the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace, shall be fined in any sum not less than one hundred dollars nor more than two hundred dollars for the first offense, and for each subsequent offense shall be fined in any sum not less than one hundred dollars nor more than two hundred dollars and be imprisoned in the county jail for a period of not less than three months nor more than six months.

SEC. 4. It shall be unlawful for any person or persons or agents or employees of any association or corporation to buy or sell the hides or the flesh of any of the animals mentioned in the preceding sections at any time of the year.

SEC. 5. It shall be unlawful for any person or persons to hunt or chase with dogs any of the animals mentioned in the preceding sections, or to own, keep, or have, in possession any dog or dogs for said purpose, or to hunt or chase any animal whatsoever, with any bloodhound or fox hound, or with any other dog or dogs that howls or barks while running the trail of any animal.

SEC. 6. It shall be unlawful to kill, ensnare, trap or destroy any quail except between the first day of October and the first day of December of each year or to trap, ensnare, or sell or offer for sale, any quail, at any time of the year.

SEC. 7. It shall be unlawful for any person to kill, ensnare, trap or destroy any partridge, pheasant, grouse, prairie chicken, sage hen or fool hen, except between the first day of August and the fifteenth day of December of each year, or to destroy the eggs of any birds mentioned in this or preceding sections at any time of the year.

SEC. 8. It shall be unlawful to kill, ensnare, trap, or destroy any species of wild duck, goose, or swan, or to take, or to destroy their eggs between the fifteenth of March and the fifteenth day of August of each year.

SEC. 9. Having in possession any of the animals or birds named in this chapter, which are prohibited from being killed or between the dates within which the killing, ensnaring, trapping or destroying of the same is declared to be unlawful, shall be deemed prima facie evidence that such person killed, ensnared, trapped or destroyed the same in violation of this Act.

SEC. 10. It shall be unlawful to catch or kill any species of fish, except salmon, carp, chub, mullet, sucker, shad, white fish and sturgeon in any of the streams, rivers, lakes, reservoirs or waters, lying within the State of Idaho, with any seine or other net, or any spear, weir, fence, basket, trap, gill-net, set-net, otter or any other contrivance except hook and line at-

tached to a pole or held in a hand: *Provided*, That no fish shall be taken by any method, except for breeding (and home consumption), between the first day of November and the fifteenth day of May of the succeeding year.

SEC. 11. It shall be unlawful to take, sell, buy or have in possession any species of fish except salmon, carp, chub, mullet, sucker, shad, white fish or sturgeon within the times wherein the killing or catching of the same is prohibited or for any person or persons, agent or employee of any association, corporation, stage line, railroad company or express company to ship or transport any of said fish except salmon, carp, chub, mullet, sucker, shad, white fish or sturgeon at any time of the year.

SEC. 12. It shall be unlawful to use for the killing of any fish, any poisonous, deleterious, or stupefying drag [drug], dynamite, giant powder or other explosive, at any time of the year. And every person violating any of the provisions of this section shall be deemed guilty of a felony.

SEC. 13. It shall be unlawful to empty or allow the emptying of sawdust into any of the waters of this State which are known to contain trout, or to deposit the same within such distance that it may be carried into said waters by natural causes.

SEC. 14. Every person, firm, company or corporation maintaining or keeping up any dam, weir or other artificial obstruction upon any of the streams of water in this State, shall elect and keep up and maintain at such dam, weir or other obstruction a sufficient sluice, fish-way for the free passage of fish up and down such stream. Any person, firm, company or corporation now diverting or that may hereafter divert any of the waters from any stream, lake or other waters of this State by means of any canal or conduit, shall construct or cause to be constructed and keep in repair a suitable screen of wire or other suitable material at the head of such canal subject to approval and inspection by the county commissioners for the prevention of the passage of fish into said canal; the meshes of said screen shall not be more than two inches in diameter; and any person, firm, company or corporation neglecting or failing to comply with the provisions of this Act, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed one hundred dollars for each month or portion thereof that the provisions of this section are not complied with.

SEC. 15. Each and every thirty days that any person, firm, company or corporation shall neglect or refuse to comply with the provisions of the two preceding sections of this Act, shall constitute a separate offense.

SEC. 16. Every person, firm, company or corporation violating any of the provisions of this Act, wherein no other penalty is provided for, shall be deemed guilty of a misdemeanor and is punished for each and every offense committed, by fine not less than one hundred dollars, or by both fine and imprisonment.

SEC. 17. It shall be the duty of the sheriff, deputy sheriff and constables of the various counties of the State to arrest, either with or without a warrant or to cause to be arrested, and bring before a judge or justice of the county nearest to where the offense was committed, any person or persons violating the provisions of this Act; and any person or persons making complaint under oath, to any of the aforesaid officers, the party or parties complained against must be arrested and the person or persons making such complaint shall be entitled to one-half of the fine imposed upon the conviction thereof; and the one-half of such fines col-

lected to be paid into the county treasury for the benefit of the county school fund of the county wherein the conviction was had.

SEC. 18. All acts and parts of acts in conflict with the provisions of this Act, and all acts now in force relative to the protection of fish and game, are hereby repealed, except the act of 1897 relative to buffalo.

SEC. 19. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 139.

AN ACT

ENQUIRING THE ISSUANCE OF MARRIAGE LICENSES, PRESCRIBING THE FORM THEREOF AND FOR CERTIFYING MARRIAGES THEREUNDER; AND FOR THE KEEPING OF A RECORD OF MARRIAGES; FIXING PENALTIES FOR VIOLATIONS THEREOF, AND FOR MAKING FALSE RETURNS OF ANY MARRIAGE. REPEALING SECTIONS 2434, 2435, AND 2437 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The county recorder of any county in this State shall have authority to issue marriage licenses to any parties applying for the same who may be entitled under the laws of this State to contract matrimony, authorizing the marriage of such parties, which licenses shall be substantially in the following form:

Know all men by this certificate that any regularly ordained minister of the gospel, authorized by the rites and usages of the church or denomination of Christians, Hebrews, or religious body of which he may be a member, or any judge or justice of the peace or competent officer to whom this may come, he not knowing of any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between, of of the county of, and, of of the county of, and to certify the same to said parties, or either of them, under his hand and seal, in his ministerial or official capacity, and thereupon he is required to return his certificate in form following, as hereto annexed.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, at, this day of A. D. 18

Recorder.

SEC. 2. The form of certificate annexed to said license, and therein referred to, shall be as follows:

I, ..., a, residing at, in the county of, in the State of Idaho, do certify that, in accordance with the authority on me conferred by the above license, I did on this day of, in the year A. D. 18, at, in the county of, in the State of Idaho, solemnize the rites of matrimony between, of, in the county of, of the, and, of, of the county of, of the, in the presence of and

Witness my hand and seal at the county aforesaid, this day of, A. D. 18

In the presence of

. [SEAL]

The license and certificate, duly executed by the minister or officer who shall have solemnized the marriage authorized, shall be returned by him to the office of the recorder who issued the same, within thirty days from the date of solemnizing the marriage therein authorized; and a neglect to make such return shall be deemed a misdemeanor, and the person whose duty it shall be to make such return, who shall neglect to make such return within the time above specified, shall, upon conviction thereof, be punished by a fine of not less than twenty nor more than fifty dollars to be assessed by any justice of the peace or other court having jurisdiction.

SEC. 3. Every county recorder who shall have personal knowledge of the competency of the parties for whose marriage a license is applied for shall issue such license upon payment or tender to him of his legal fee therefor; and, if such recorder does not know of his own knowledge that the parties are competent under the laws of this State to contract matrimony, he shall take the affidavit in writing of the person or persons applying for such license, and of other persons as he may see proper, and of any persons whose testimony may be offered; and, if it appear from the affidavit so taken that the parties for whose marriage the license in question is demanded, are legally competent to marry, the recorder shall issue such license, and the affidavits so taken shall be his warrant against any fine or forfeiture for issuing such license. Any county recorder who shall issue a license to marry to parties, one or both of whom shall not be at the time of marriage under such license legally competent to marry, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of one hundred dollars before any court having jurisdiction.

SEC. 4. The county recorder shall have power to administer all oaths required or provided for in this Act; and, if any person in any such affidavit shall willfully and corruptly swear falsely to any material fact as to the competency of any person for whose marriage the license in question refers, or concerning the procuring or issuing of which such affidavit may be made, shall be guilty of perjury, and, upon conviction thereof, shall be punished as provided by statute in other cases of perjury.

SEC. 5. Any authorized minister or officer to whom any such license, duly issued, may come, not having personal knowledge of the incompetency of either party therein named to contract matrimony, may lawfully solemnize matrimony between them.

SEC. 6. If any such minister or officer shall presume to solemnize any marriage between parties without such a license, or with knowledge that either party is legally incompetent to contract matrimony as is provided for by the laws of this State he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars before any court having jurisdiction.

SEC. 7. The recorder shall record all such returns of marriage licenses in a book to be kept for that purpose, within one month after receiving the same. If any recorder shall neglect or refuse to record within the said time any return to him made, he shall forfeit one hundred dollars, to be recovered, with costs, by any person who will prosecute for the same.

SEC. 8. The recorder of each county in this State shall be entitled to a fee of one dollar for each license issued which fee he shall demand and receive from the person applying for the same, and he may refuse to issue

any such license until such fee is paid to him. Said fee shall also include the payment for the service of recording the license upon its return by the minister or officer solemnizing the marriage for which it was issued.

SEC. 9. The books of marriages and copies of entries therein, certified by the recorder under his official seal, shall be evidence in all courts.

SEC. 10. If any person, authorized to solemnize marriage, shall willfully make a false return of any marriage or pretended marriage to the recorder; or, if the recorder shall willfully make a false return of any marriage, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, and by imprisonment of not less than three months.

SEC. 11. All fines and penalties accruing under the provisions of this Act shall be paid into the county treasury for the use of the common schools in the county where the offense was committed.

SEC. 12. Sections 2434, 2435 and 2437 of the Revised Statutes are hereby repealed.

SEC. 13. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved on the 14th day of February, 1899.

H. B. NO. 140.

AN ACT

TO AMEND SECTION 8 OF AN ACT, PASSED AT THE FIFTEENTH SESSION OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF IDAHO, ENTITLED "AN ACT CREATING AND ORGANIZING THE COUNTIES OF ELMORE AND LOGAN AND DEFINING THE BOUNDARY LINES OF BINGHAM AND ALTURAS COUNTIES," APPROVED FEBRUARY 7TH, A. D. 1889.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 8 of said act is hereby amended to read as follows:—

Section 8. Immediately after the filing of the certificate (of the proportion of the indebtedness) named in the preceding section (7) the auditors of Elmore and Logan and Bingham Counties, under the supervision of their respective boards of commissioners, must draw and issue warrants in favor of Alturas County, to the full amount of the indebtedness apportioned to their respective counties, such warrants to bear date July 1st 1889, to be issued in sums of five hundred dollars each (but one warrant may be drawn for a less amount in order to pay a fractional part of the debt) and to be not transferable, and to bear interest at the rate seven per cent. per annum, payable on the first day of January and first day of July, in each year at the office of the county treasurer of Alturas County, or at such bank in the City of New York as may be designated by the board of county commissioners of Alturas County. Such warrants are to, and shall be redeemed by each respective county in the following manner:—Ten per cent. of the total amount issued shall be paid in eight years from the date of issue and ten per cent. annually thereafter, until all of said warrants are paid, making the last of said warrants redeemable eighteen years from the date of issue. The money so received from the Counties of Elmore, Logan and Bingham by Alturas County, shall be by it, applied only to the payment of the present indebtedness of Alturas County, and the securities into which it has been funded.

The board of county commissioners of the above named counties shall, at the time they make the tax levy for county and State purposes, in each year, levy also a special tax upon all the taxable property of their re-

spective counties in an amount sufficient to pay the interest on said warrants, and the county assessor of each of said counties shall pay the amount of said tax over to the county treasurer of Alturas County each year and in time to enable said County of Alturas to meet the payments of interest on the funded debt of said county, as the same shall become due. The board of county commissioners of each of said Counties of Logan, Elmore and Bingham, shall, also and at least one year before the first of said warrants shall become due, levy a special tax sufficient to pay the principal of said first warrants, when the same shall become due, and shall levy, also, a tax each year thereafter to pay the principal of the remainder of said warrants as they become due, and year by year shall pay the amounts of such taxes to the county treasurer of Alturas County, until all of said warrants are paid.

In case there shall, by said counties or either thereof at any time, be an omission for any cause to levy the aforesaid taxes or any thereof, it shall be the duty of the boards of county commissioners of the counties, or county so omitting to make such levy to ascertain the amount of arrearages of principal and interest then due and in addition to the amount levied for the payment of the interest then accruing to levy each year a tax for such additional sum as will pay one year's arrearages of interest, or principal or both, beginning with the first year that said interest or principal or both become delinquent and unpaid, and shall continue to levy a similar tax each year and every year until all the arrearages of interest and principal shall be fully paid: *Provided*, That if any of said counties shall so desire they may refund all of said arrearages of interest and principal by the issuance of interest bearing coupon bonds therefor, payable in not less than ten (10) or more than twenty (20) years from the date of issue, bearing interest at not exceeding six (6) per cent. per annum; said bonds to be issued in pursuance of law. All money arising from the collection of taxes or the sale of bonds for the purpose of paying the arrearages of principal and interest on said warrants shall be paid over to the treasurer of Alturas County in time to enable said county to pay the proportion due from each of said Counties of Logan, Elmore and Bingham upon said funded debt of Alturas County.

The provisions of chapter VI of title XIII of the Revised Statutes shall apply so far as the same shall aid in the enforcement of this Act; and the neglect or refusal of the proper officer or officers to carry out the provisions of this section shall subject such officer or officers to the penalties provided in said chapter.

SEC. 2. Whereas an emergency exists this Act shall take effect and be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. NO. 143.

AN ACT

TO PROVIDE FOR A STATE ENGINEER, DEFINING HIS DUTIES AND REGULATING HIS COMPENSATION, AND TO PROVIDE FOR THE ACCEPTANCE BY THE STATE OF IDAHO FROM THE UNITED STATES OF CERTAIN LANDS, AND TO PROVIDE FOR THE RECLAMATION, OCCUPATION AND DISPOSAL OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

CHAPTER I.

To Provide for a State Engineer, Defining His Duties and Regulating His Compensation.

SECTION 1. As soon as may be after the passage of this Act, there shall be appointed by the Governor, by and with the advice and consent of the Senate, a State Engineer, who shall hold his office for the term of four years, and until his successor is appointed and qualified. No person shall be appointed as such State Engineer who is not known to have such theoretical and practical qualifications as shall fit him for the position. The Governor may remove such State Engineer for cause, and, in case of such removal, or in case of death or resignation, appoint a successor.

SEC. 2. Such State Engineer shall have his office at the State capitol in an office to be provided for him by the Secretary of State.

SEC. 3. Before entering upon the duties of his office, said State Engineer shall take and subscribe an oath before some duly authorized officer to faithfully perform the duties of his office, and shall file such oath with the Secretary of State.

SEC. 4. Before entering upon the duties of his office, said State Engineer shall file with the Secretary of State an official bond in the penal sum of thirty thousand dollars, with not less than two sureties, to be approved by the Governor, and conditioned upon the faithful discharge of his duties and for delivery to his successor all property belonging to the State then in his possession or control.

SEC. 5. Said State Engineer shall receive a salary of two thousand dollars per year payable monthly by the State Treasurer upon warrants drawn by the State Auditor, together with his actual expenses, as shown by an itemized bill, necessarily incurred when called away from the State capital in the discharge of his duties in a sum not to exceed five hundred (\$500.00) per annum.

SEC. 6. The State Engineer shall make or cause to be made careful measurements of the flow in cubic feet per second of the various streams in the State whose waters are, or are likely to be, appropriated and used, through that part of the season which he may deem necessary or expedient, to afford information for irrigating purposes, commencing with those streams most used for irrigation. He shall collect facts and make surveys to ascertain suitable locations for reservoirs upon streams where such reservoirs may be possible and beneficial, and shall, as far as possible, determine the cost of constructing such reservoirs, and all other facts possible in regard to quantity of water possible to be stored, the character and extent of land that may be reclaimed by the water from such reservoirs, together with all other information possible that may bear upon the subject. He shall become familiar with the waterways and irrigable land in the State and the needs of the State as to irrigation matters, and all records of any such information shall be the property of the

State and open to public inspection. He shall keep full and complete records of all measurements of streams, surveys, examinations or other valuable information that may come into his possession concerning any of the duties of his office, and shall furnish reasonable information in regard to such measurements or surveys to the newspapers of the State upon proper request.

SEC. 7. Any person, association or corporation who shall desire to construct any dam or dyke, for the purpose of storing or appropriating or diverting any of the waters of this State, when the same is to be more than ten feet in height, except as otherwise in this Act provided, shall submit duplicate plans, drawings and specifications of the proposed work to the State Engineer who shall as speedily as possible and within forty-five days examine such plans, drawings and specifications, and, if he approve them, he shall affix his approval thereto, and return one copy of each such plan, drawing or specification, with his approval, to the party or parties proposing to construct the works. If the State Engineer shall disapprove of such plans, drawings or specifications, he shall return the same with his written objections thereto and suggestions of changes to the party or parties filing the same: *Provided*, Where said dam or dyke is, in the opinion of said Engineer, not of sufficient importance to have the provisions of this section apply to such dam or dyke, then said Engineer shall have power upon written application to suspend the provisions of this section in regard to such dam or dyke.

In cases of works of great importance, especially where life or property would be endangered by the failure of such works, the State Engineer may require excavations to be made to determine the character of the foundation, and require a statement of the facts in the case to be filed in his office before approving such plans, drawings or specifications; or he may, if he deems the public interest demands, visit the locality of such proposed works before approval of said plans, drawings or specifications; and no rights of any kind under the laws of this State shall be deemed to be obtained, where the proposed works, as in this section provided, have not been approved by the State Engineer.

SEC. 8. Whenever any party or parties feel themselves aggrieved by the determination of the State Engineer in refusing to approve any plan or specification as mentioned in the preceding section, then such party or parties may have an appeal to the courts.

SEC. 9. The State Engineer shall inspect, or cause to be inspected, as often as he thinks advisable, every dam or embankment used for holding water in this State, where the same is more than twenty feet in height; and, if after any such inspection such dam or embankment, in the opinion of the State Engineer, is unsafe and life or property liable to be endangered by reason thereof, he shall order the owner or owners to repair the same so as to make it safe; and, if such owner or owners shall neglect or refuse to repair the same after a reasonable notice to that effect has been given in writing by the State Engineer, then said State Engineer shall report the facts in the case to the judge of the district court of the district in which such dam or embankment is situated, who shall, after hearing such facts, if he deem it necessary for the public welfare, order the water master of the district in which such dam or embankment is situated, if there be one,— if not, the sheriff of the county,— to draw off such water from behind said

dam or embankment, and to keep said water drawn off till such time as the orders of the State Engineer shall be complied with.

SEC. 10. If any person or persons shall report in writing to the State Engineer that any dam or embankment, used for holding water, is unsafe and endangering life or property, then it shall be the duty of said State Engineer to inspect, or cause to be inspected, such dam or embankment as soon as possible, and, if he considers it unsafe, shall proceed as provided in section ten of this chapter and Act.

SEC. 11. The State Engineer shall, free of charge, give any information desired by any person as to the proper method of measuring water, or of constructing an apparatus for such measurement, upon proper application being made; and shall give special instructions to all water masters as to measurement of water so as to secure a just distribution of the same.

SEC. 12. The State Engineer may require, and shall receive, from the Attorney General of the State advice upon any question of public interest arising in the performance of his duties under this Act, which advice shall be in writing when so desired by said Engineer.

SEC. 13. The State Engineer shall make and render to the Governor, biennially, or oftener, if required, full and true reports of his work performed by virtue of his office, which reports shall contain any recommendations he may have to make in reference to legislation affecting his office, or in reference to matters of interest in regard to irrigation that his experience and information may cause him to make.

SEC. 14. In addition to the duties prescribed in this Act, the State Engineer shall perform such other professional duties as may be required of him by the Governor, and shall give advice on any matters of a professional nature, when called upon by the Governor to do so; and shall prepare all maps required for the use of the Board of Land Commissioners.

CHAPTER II.

To Provide for the Acceptance by the State of Idaho from the United States of Certain Lands, and to Provide for the Reclamation, Occupation and Disposal of the Same.

SECTION 1. That the State of Idaho hereby accepts the conditions of section four of an act of Congress, entitled, "An act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30th, 1894, and for other purposes," approved August 18, A. D. 1894, together with all the grants of land to the State under the provisions of the aforesaid act.

SEC. 2. The selection, management and disposal of said land shall be vested in the State Board of Land Commissioners, as constituted by section seven of article nine of the Constitution of the State of Idaho. Said State Board of Land Commissioners shall be hereinafter designated as the Board.

SEC. 3. The Board shall meet at least once in each month on the second Wednesday thereof for the transaction of business. The Governor shall be president of the Board, and it shall be his duty to sign all contracts, papers or documents that shall be approved, made or directed by the Board. Any three of the Board shall constitute a quorum for the transaction of any and all business; and, in the absence of the Governor, one of the other members may act as president *pro tempore* and may preside at such meeting.

SEC. 4. The president shall have power to call together a special meeting, if in his judgment, public good requires the same to be done, for any

purposes contemplated in this Act or any other act prescribing the duty of said Board; and such call may be either a personal or written notice. The object of such meeting shall be made a matter of record by the secretary. The Attorney General shall be secretary of the Board, whose duty it shall be to keep a careful record of the transactions of the Board, in a substantially bound book to be kept for that purpose, which shall be known as the Record and Proceedings of the State Board of Land Commissioners. He shall countersign all papers, instruments or documents approved, made or directed by the Board and bearing the signature of the president.

SEC. 5. The Board shall have an office in the capitol building in a room set apart by the capitol commission. Said office shall be in charge of the secretary. He shall have the custody of the records of the Board; and shall receive and file all proposals for the construction of irrigation works to reclaim lands selected under the provisions of this Act; keep for public inspection maps or plats, on a scale of two inches to the mile, of all lands selected; receive entries of settlers on these lands, and hear or receive the final proof of their reclamation; and do any and all work required by the Board in carrying out the provisions of this Act. He shall have authority to administer oaths whenever necessary in the performance of his duties as secretary of the Board.

SEC. 6. Any person, company or persons, association or incorporated company constructing, having constructed or desiring to construct, ditches, canals or other irrigation works to reclaim land under the provisions of this Act, shall file with the Board a request for the selection on behalf of the State by the Board of the land to be reclaimed, designating said land by legal subdivisions. This request shall be accompanied by a proposal to construct the ditch, canal or other irrigation works necessary for the complete reclamation of the land asked to be selected. The proposal shall be prepared in accordance with the rules of the Board and with the regulations of the Department of the Interior; and shall be accompanied by the certificate of the State Engineer that application for permit to appropriate water has been filed in his office, together with the State Engineer's report thereon. It shall state the source of water supply, the location and dimensions of the proposed works, the estimated cost thereof, the price and terms per acre at which perpetual water rights will be sold to settlers on the land to be reclaimed, said perpetual rights to embrace a proportionate interest in the canal or other irrigation works, together with all the rights and franchises attached thereto. In the case of incorporated companies it shall state the name of the company, the purpose of its incorporation, the names and places of residence of its directors and officers, the amount of its authorized and of its paid up capital. If the applicant is not an incorporated company, the proposal shall set forth the name or names of the party or parties and such other facts as will enable the Board to determine his or their financial ability to carry out the proposed undertaking.

SEC. 7. A certified check for a sum not less than two hundred and fifty dollars, nor more than two thousand five hundred dollars, as may be determined by the rules of the Board, shall accompany each request and proposal, the same to be held as a guarantee of the execution of the contract with the State, in accordance with its terms, by the party submitting such proposal, in case of the approval of the same and the selection of the land by the Board, and to be forfeited to the State in case of

failure of said parties to enter into a contract with the State in accordance with the provisions of this Act.

SEC. 8. The person, company of persons, association or incorporated company making application to the Board for the selection of lands by the State, shall have filed with the State Engineer an application for a permit to appropriate water for the reclamation of the lands described in the request to the Board. This application for a permit shall be of a form prescribed by the State Engineer, and shall be accompanied by two copies of a map of the land to be selected, and it shall show accurately the location and dimensions of the proposed irrigation works. The maps of the lands and proposed irrigation works shall be prepared in accordance with the regulations of the State Engineer's office and the rules of the Department of the Interior.

SEC. 9. Immediately upon the receipt of any request and proposal, as designated in section six, it shall be the duty of the secretary to examine the same and ascertain if it complies with the rules of the Board and the regulations of the Department of the Interior. If it does not, it is to be returned for correction; but, if it does so comply, it shall be submitted to the State Engineer, who shall examine the same and make a written report to the Board, stating whether or not the proposed works are feasible; whether the proposed diversion of the public waters of the State will prove beneficial to the public interest; whether there is sufficient unappropriated water in the source of supply; and whether or not a permit to divert and appropriate water through the proposed works has been approved by him; whether the capacity of the proposed works is adequate to reclaim the land described; whether or not the proposed cost of construction is reasonable; and whether or not the maps filed in his office comply with the requirements of said office and the regulations of the Department of the Interior; also whether or not the lands proposed to be irrigated are desert in character and such as may properly be set apart under the provisions of the aforesaid act of Congress and the rules and regulations of the Department of the Interior thereunder. Whenever the State Engineer shall be unable, from an examination of the maps and field notes submitted for his examination, to determine whether or not the proposed irrigation works are feasible and adequate, whether or not the proposed cost of construction is reasonable, or whether or not the proposed diversion of the public water is beneficial to public interest, and whether or not the lands proposed to be irrigated are of such a character as to come under the provisions of the aforesaid act of Congress, it shall be his duty to make, or cause to be made by some qualified assistant, such survey or examination as will enable him to report intelligently thereon to the Board.

SEC. 10. On receipt of the report of the State Engineer the secretary shall place the request and proposal with the Engineer's report thereon before the Board for its consideration. In case of approval the Board shall instruct the secretary to file in the local land office a request for the withdrawal of the land described in said proposal. No request on which the State Engineer has reported adversely, either as to the water supply, the feasibility of the construction, the cost or capacity of the works, or as to the character of the lands sought to be irrigated, shall be approved by the Board.

• SEC. 11. In case the State Engineer shall report adversely upon the

proposed irrigation works, or where requests and proposals are not approved by the Board, shall notify the parties making such proposal of such action and the reasons therefor. The parties so notified shall have sixty days in which to submit a satisfactory proposal; but the Board may, at its discretion, extend the time to six months.

SEC. 12. Upon the withdrawal of the land by the Department of the Interior, it shall be the duty of the Board to enter into a contract with the parties submitting the proposal, which contract shall contain complete specifications of the location, dimensions, character and estimated cost of the proposed ditch, canal or other irrigation works; the price and terms per acre at which such works and perpetual water rights shall be sold to settlers; and the price and terms upon which the State is to dispose of the lands to settlers. This contract shall not be entered into on the part of the State until the withdrawal of these lands by the Department of the Interior and the filing of a satisfactory bond on the part of the proposed contractor for irrigation works, which bond shall be in a penal sum equal to five per cent. of the estimated cost of the works, and shall be conditioned for the faithful performance of the provisions of the contract with the State.

SEC. 13. No contract shall be made by the Board which requires a greater time than five years for the construction of the works, and all contracts shall state that the work shall begin within six months from date of contract, that at least one-tenth of the construction work shall be completed within two years from the date of said contract, that construction shall be prosecuted diligently and continuously to completion, and that a cessation of work under the contract with the State for a period of six months after the second year, without the sanction of the Board, will forfeit to the State all rights under said contract.

SEC. 14. Upon the failure of any parties, having contracts with the State for the construction of irrigation works, to begin the same within the time specified by the contract, or to complete the same within the time or in accordance with the specifications of the contract with the State, to the satisfaction of the State Engineer, it shall be the duty of the secretary to give such parties written notice of such failure; and, if after a period of sixty days from the sending of such notice they shall have failed to proceed with the work or to conform to the specifications of their contract with the State, the bond and contract of such parties and all works constructed thereunder shall be at once and thereby forfeited to the State; and it shall be the duty of the Board at once so to declare and to give notice once each week, for a period of four weeks, in some newspaper of general circulation in the county in which the work is situated, and in one newspaper at the State Capital in like manner and for a like period, of the forfeiture of said contract, and that upon a fixed day proposals will be received at the office of the Board in the Capitol at Boise City for the purchase of the incompleted works and for the completion of said contract, the time for receiving said bids to be at least sixty days subsequent to the issuing of the last notice of forfeiture. The money received by the Board from the sale of partially completed works under the provisions of section fourteen of this Act shall first be applied to the expenses incurred by the State in their forfeiture and disposal, and to satisfying the bond; and the surplus, if any exists, shall be paid to the original contractors with the State.

SEC. 15. Nothing in this Act shall be construed as authorizing the Board to obligate the State to pay for any work constructed under any contract, or to hold the State in any way responsible to settlers for the failure of contractors to complete the work according to the terms of their contracts with the State.

SEC. 16. Immediately upon the withdrawal of any land for the State by the Department of the Interior, and the inauguration of work by the contractor, it shall be the duty of the Board, by publication once each week in some newspaper of the county in which said lands are situated, and in one newspaper at the State Capital, for a period of four weeks, to give notice that said land is open for settlement, the price for which said land will be sold to settlers by the State, and the contract price at which settlers can purchase perpetual water rights.

SEC. 17. Any citizen of the United States, or any person having declared his intention to become a citizen of the United States (excepting married women) over the age of twenty-one years, may make application, under oath, to the Board, to enter any of said land in an amount not to exceed one hundred and sixty acres for any one person; and such application shall set forth that the person desiring to make such entry does so for the purpose of actual reclamation, cultivation and settlement in accordance with the Act of Congress and the laws of this State relating thereto, and that the applicant has never received the benefit of the provisions of this Act to an amount greater than one hundred and sixty acres, including the number of acres specified in the application under consideration. Such application must be accompanied by a certified copy of a contract for a perpetual water right, made and entered into by the party making application with the person, company or association who have been authorized by the Board to furnish water for the reclamation of said lands; and, if said applicant has at any previous time entered lands under the provisions of this Act, he shall so state in his application, together with description, date of entry and location of said land.

The Board shall thereupon file in its office the application and papers relating thereto, and, if allowed, issue a certificate of location to the applicant. All applications for entry shall be accompanied by a payment of twenty-five cents per acre, which shall be paid as a partial payment on the land if the application is allowed; and all certificates when issued shall be recorded in a book to be kept for that purpose. If the application is not allowed the twenty-five cents per acre accompanying it shall be refunded to the applicant.

The Board shall dispose of all lands accepted by the State under the provisions of this Act at a uniform price of fifty cents per acre, half to be paid at the time of entry and the remainder at the time of making final proof by the settler.

SEC. 18. As provided in the act of Congress all moneys received by the Board from the sale of lands selected under the provisions of this Act shall be deposited with the State Treasurer, and such sums as may be necessary shall be available for the payment of the expenses of the Board and of the State Engineer's office incurred in carrying out the provisions of this Act.

Such expenses shall be paid by the State Auditor in the manner provided by law upon vouchers duly approved by the State Board of Examiners for the work performed under its direction, and by the State Engineer for all work performed by the State Engineer's office; and any balance re-

maining over and above the expense necessary to carry out the provisions of this Act, shall constitute a trust fund in the hands of the State Treasurer to be used only for the reclamation of other arid lands.

SEC. 19. Within one year after any person, company of persons, association or incorporated company, authorized to construct irrigation works under the provisions of this Act, shall have notified the settlers under such works that they are prepared to furnish water under the terms of their contract with the State, the said settler shall cultivate and reclaim not less than one-sixteenth part of the land filed upon, and within two years after the said notice the settler shall have actually irrigated and cultivated not less than one-eighth of the land filed upon, and within three years from the date of said notice the settler shall appear before the secretary of the Board, a judge or clerk of the district court, or United States circuit court, or commissioner, to be designated by the Board, within the State, and make final proof of reclamation, settlement and occupation, which proof shall embrace evidence that he has a perpetual water right for his entire tract of land sufficient in volume for the complete irrigation and reclamation thereof; that he is an actual settler thereon and has cultivated and irrigated not less than one-eighth part of said tract; and such further proof, if any, as may be required by the regulations of the Department of the Interior and the Board. The officer taking this proof shall be entitled to receive a fee of two dollars, which fee shall be paid by the settler and shall be in addition to the price paid to the State for the land. All proofs so received shall be submitted by the secretary to the Board and shall be accompanied by the last and final payment for said land, and on the approval of the same by the Board they shall be forwarded to the Secretary of the Interior with a request that a patent to said lands be issued to the State: *Provided*, That when the secretary shall take such final proof all fees received by him shall be turned into the State treasury.

SEC. 20. Upon the issuance of a patent to any lands by the United States to the State, notice shall be forwarded to the settler upon such land. It shall be the duty of the Board, under the signature of the president and attested by its secretary, to issue a patent to said lands from the State to the settler.

The water rights to all lands acquired under the provisions of this Act shall attach to and become appurtenant to the land as soon as title passes from the United States to the State. Any person, company or association, furnishing water for any tract of land, shall have a first and prior lien on said water right and land upon which said water is used, for all deferred payments for said water right; said lien to be in all respects prior to any and all other liens created or attempted to be created by the owner and possessor of said land; said lien to remain in full force and effect until the last deferred payment for the water right is fully paid and satisfied according to the terms of the contract under which said water right was acquired. The contract for the water right upon which the aforesaid lien is founded shall be recorded in the office of the county clerk of the county where said land is situate.

Upon default of any of the deferred payments secured by any lien under the provisions of this Act, the person, company of persons, association or incorporated company, holding or owning said lien, may foreclose the same according to the terms and conditions of the contract granting and selling to the settler the water right. All sales shall be advertised in a newspaper

of general circulation, published in the county where said land and water right is situate, for six consecutive weeks, and shall be sold to the highest bidder at the front door of the court house of the county, or such place as may be agreed upon by the terms of the aforesaid contract. And the sheriff of said county shall in all such cases give all notices of sale, and shall sell all such land and water rights, and shall make and execute a certificate of sale to the purchaser thereof. And at such sale no person, company of persons, association or incorporated company, owning and holding any lien, shall bid in or purchase any land or water right at a greater price than the amount due on said deferred payment for said water right and land, and the costs incurred in making the sale of said land and water right.

At any time within nine months after the foreclosure sale by the sheriff of the land and water rights aforesaid, the original owner against whom the lien has been foreclosed, may apply to the person, company of persons, association or incorporated company, purchasing at such sale, to redeem such land and water rights and the purchaser shall assign the certificate of sale of such land and water rights to such original owner, upon the payment by him within such nine months, of the amount of the lien for which the same was sold at such foreclosure sale, together with the interest, costs and fixed charges thereon.

Where the lien holder becomes the purchaser at such foreclosure sale, if such land and water rights are not redeemed by the original owner within nine months, then at any time within three months after the expiration of such nine months, any person desiring to settle upon and use such lands and water rights, may apply to the purchaser at such foreclosure sale to redeem such land and water rights, and such purchaser shall assign the certificate of sale of such land and water rights to the person desiring to redeem the same, upon the payment by him, within such three months, of the amount of the lien for which the same was sold at such foreclosure sale, together with the interest, costs and fixed charges thereon.

Upon issuing any certificate of sale, it shall be the duty of the sheriff to file for record in the office of the county clerk of the county where such land is situated, a certified copy of such certificate of sale; and, in case the original owner shall redeem the land and water rights sold as aforesaid, he shall file for record in the office of such county clerk, the certificate of sale assigned to him by the purchaser as aforesaid, upon his redemption of such land and water rights. In case the land and water rights shall be redeemed by any person other than the original owner, the sheriff shall, upon presentation of such certificate, issue a deed for such land and water rights to the person so redeeming the same. If the land and water rights shall not be redeemed by any person within the times and in the manner hereinbefore provided, it shall be the duty of the sheriff, upon presentation of the certificate of sale by the original purchaser, to issue a deed to such purchaser. Where such land and water rights are not purchased by the lien holder at such foreclosure sale, it shall be the duty of the sheriff to first pay the lien holder out of the proceeds of such sale, the amount of the lien, together with all interest, costs and fixed charges thereon, and to pay any balance remaining to the person against whom such lien has been foreclosed, and for his services in such cases the sheriff shall receive the same fees as are provided by the law in civil cases.

SEC. 21. The maps in the office of the Board of the lands selected under the provisions of this Act, shall show the location of the canals or other

irrigation works approved in the contract with the Board, and all lands filed upon shall be subject to the rights-of-way of such canals or irrigation works. Said right of way to embrace the entire width of the canal and such additional width as may be required for its proper operation and maintenance, the width of right of way to be specified in the contracts provided for in this Act.

SEC. 22. The Board shall provide suitable rules for the filing of proposals for constructing irrigation works, and for the entry of and payment for the land by settlers, and for the forfeiting of entry by settlers upon failure to comply with the provisions of this Act. There shall be kept in the office of the Board, for public inspection, copies of all maps, plats, contracts for the construction of irrigation works, and of the entries of land by settlers. It shall require from each person, company of persons, association or incorporated company engaged in the construction of irrigation works, under the provisions of this Act, an annual report, to be submitted to the Board on or before November 1st of each year. This report shall show the number of water rights sold, the number of users of water under said irrigation works, the legal subdivisions of land for which water is to be furnished, the names of the officers of the company, the acreage of land which the said irrigation works is prepared to supply with water, and such other data as the Board sees fit to require. The rules required by this section may be waived in the case of irrigation works being constructed by a person, colony or association of persons to furnish water for land settled upon and being reclaimed by themselves.

SEC. 23. The Board shall prescribe the duties of all its employees and shall collect the following fees:

For filing each application one dollar; for making certified copies of papers or records the same fee as provided for to be charged by the Secretary of State for like services. The money collected for fees shall be paid to the Treasurer of the State and by him credited to the fund created by virtue of this Act.

SEC. 24. The Board shall issue on or before November 30th of each year a report setting forth in detail the names, location and character of the irrigation works in process of construction, the acreage and legal subdivisions of land intended to be reclaimed, the estimated cost of said irrigation works, and the price of water rights from such irrigation works, and the terms of payment for both water rights and land. Not less than five thousand copies of such report shall be printed for gratuitous distribution.

SEC. 25. All suits or actions brought by the Board, under the provisions of this Act, shall be instituted by the Board in the name of the people of the State of Idaho.

SEC. 25. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 2nd day of March, 1899.

H. B. NO. 144.

AN ACT

DEFINING WHAT CHATTELS MAY BE MORTGAGED AMENDING SECTION 3385 OF THE REVISED STATUTES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3385 of the Revised Statutes be amended to read as follows:

Section 3385. Chattel mortgages may be made upon all property, goods or chattels, not defined by statute to be real estate, upon growing crops, and upon crops to be sown and grown in the future; but, should the persons executing mortgages upon crops, to be afterwards sown, fail to sow or cause the same to be sown, no lien, of such mortgages shall attach to crops sown by other persons upon the lands described in said mortgages, except in so far as the mortgagors in said mortgages have or retain interests in said crops.

An emergency existing therefor, this Act shall be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. NO. 145.

AN ACT

PROVIDING THE MANNER OF MORTGAGING EXEMPT PROPERTY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. No personal property of either husband or wife, that is exempt by law from execution, shall be mortgaged by either husband or wife without the joint concurrence of both.

SEC. 2. An emergency existing therefor, this Act shall be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. NO. 146.

AN ACT

TO REPEAL SUB-DIVISION 2 OF SECTION 1645 OF THE REVISED STATUTES, LICENSING THEATRES, EXHIBITIONS AND PERFORMANCES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Subdivision two of section 1645 of the Revised Statutes of the State of Idaho is hereby repealed.

SEC. 2. An emergency existing therefor, this Act shall be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. NO. 147.

AN ACT

REGULATING THE PLACE OF TRIAL IN CIVIL ACTIONS; AMENDING SECTION 4123 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 4123 of the Revised Statutes be amended to read as follows: Section 4123. In all other cases, the action must be tried in the county in which the defendants, or some of them, reside, at the commencement of the action; or, if none of the defendants reside in the State, or, if residing in this State the county in which they reside is unknown to the plaintiff, the same may be tried in any county

which the plaintiff may designate in his complaint; and if the defendant is about to depart from the State, such action may be tried in any county where either of the parties reside, or service is had, subject, however, to the power of the court to change the place of trial, as provided in this Code. *Provided*, That in all actions against life or fire insurance companies, suit or action may be commenced and tried in the county where the death occurred or the loss was sustained.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. NO. 148.

AN ACT

DEFINING HOMESTEADS; AMENDING CHAPTER 1 OF TITLE VII OF THE CIVIL CODE OF IDAHO, BY ADDING THERETO SECTION 3060.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That title VII, chapter 1, of the Civil Code of the Revised Statutes of Idaho, concerning homesteads be amended by adding thereto section 3060 to read as follows: Section 3060. The word homestead as used in this title includes within its meaning: The dwelling house in which claimant resides, and the land on which the same is situated and located as in this title provided; also the proceeds thereof in the event of a voluntary sale, and also the insurance thereon, if any, in the event of a loss.

SEC. 2. An emergency existing therefor this Act shall be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. No. 149.

AN ACT

PREScribing THE MANNER OF SERVICE UPON FOREIGN CORPORATIONS DOING BUSINESS IN THE STATE OF IDAHO, HAVING NO DESIGNATED AGENT UPON WHOM SERVICE CAN BE HAD AS PROVIDED IN SECTION 2653 OF THE REVISED STATUTES OF IDAHO; AMENDING SECTION 4144 OF SAID REVISED STATUTES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section four thousand one hundred and forty-four is amended to read as follows:

Section 4144. The summons must be served by delivering a copy thereof as follows:

1. If the suit is against a corporation formed under the laws of this State to the president or other head of the corporation, secretary, cashier or managing agent thereof.

2. If the suit is against a foreign corporation, or a non-resident joint stock company or association doing business and having a managing or business agent, cashier or secretary within this State to such agent, cashier or secretary, or to any station, ticket or other agent of such corporation transacting business thereof in the county where the action is commenced, and if there is no such agent in said county, then service may be had upon any such agent in any other county.

3. And whenever any foreign corporation or non-resident joint stock company or association, doing business within the State of Idaho, shall not have any designated person actually residing in the county in which said corporation or joint stock company shall be doing business within this

State upon whom process issued by authority of or under any law of this State may be served as provided in section 2653 of the Revised Statutes of Idaho, or when any such corporation or joint stock company having appointed such person or agent as provided in said section 2653, and said agent or person so designated, shall have removed from, or ceased to be a resident, or be absent for more than thirty (30) days from said county, then the Auditor of said county shall be and is hereby designated as the authorized agent of said corporation or joint stock company upon whom process issued by authority of or under any law of this State may be served with like effect as though said service were made upon the agent or person appointed or designated as provided in section 2653 of the Revised Statutes of Idaho.

4. If against a minor under the age of fourteen years residing within this State, to such minor personally, and also to his father, mother or guardian, or if there be none within this State, then to any person having the care or control of such minor or with whom he resides or in whose service he is employed.

5. If against a person residing in this State who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed, to such person and also to his guardian.

6. If against a county, city or town, to the chairman of the board of commissioners, president of the council, or trustee or other head of the legislative department thereof.

7. In all other cases, to the defendant personally.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. NO. 150.

AN ACT

TO PROTECT BUFFALO AND BISON.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be unlawful for any person or persons at any time to kill, ensnare or trap any buffalo or bison.

SEC. 2. It shall be unlawful for any person or persons or agents or employees of any association or corporation at any time to take, buy or sell or have in possession any buffalo or bison or any part of such animals, or for any person, agent or employee of any association, corporation, stage line, railroad company or express company to receive, carry, transport or ship any such animals or any part thereof.

SEC. 3. It shall be unlawful for any person or persons to hunt or chase with dogs, any buffalo or bison, or have in possession any dog or dogs for said purpose.

SEC. 4. Any person, agent or employee of any association or corporation, stage line, railroad company or express company who shall violate any of the provisions of the preceding sections, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred (\$100.00) dollars, nor more than three hundred

(\$300.00) dollars, or shall be imprisoned in the county jail for a term of not exceeding three (3) months, or by both such fine and imprisonment.

SEC. 5. Having in possession any buffalo or bison or any part of such animals, shall be deemed prima facie evidence that such person or persons killed, ensnared, trapped or destroyed the same in violation of this Act.

SEC. 6. It shall be the duty of the sheriff, deputy sheriff and constables of the various counties of this State, to arrest or cause to be arrested, and bring before a judge or justice of their county, any person or persons violating any of the provisions of this Act, and any person or persons making complaint under oath, to any of the aforesaid officers, the party or parties complained against must be arrested, and the person or persons making such complaint shall be entitled to one-half of the fine imposed, upon conviction thereof.

SEC. 7. One-half of all fines collected under the provisions of this Act, must be paid into the county treasury for the benefit of the common schools of the county wherein the offense was committed, and one-half to the party or parties making complaint as prescribed herein.

SEC. 8. An emergency existing, therefor this Act shall be in force from and after its passage.

SEC. 9. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved on the 16th day of February, 1899.

H. B. NO. 151.

AN ACT

PROVIDING FOR THE REGULATION, OR THE SUPPRESSION AND PROHIBITION OF PROSTITUTION IN CITIES, TOWNS AND VILLAGES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. City councils, boards of aldermen and boards of trustees of cities and towns and villages in this State, heretofore incorporated under special or general laws, or hereafter incorporated, are hereby vested with authority and power to regulate or to suppress and prohibit prostitution within the limits of their respective cities, towns and villages; and are hereby authorized and empowered to pass such ordinances, by-laws, rules and regulations as may be necessary to effect such regulation, suppression or prohibition within their respective cities, towns and villages.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists, this Act shall be in force from and after its passage and approval.

Approved on the 16th day of February, 1899.

H. B. NO. 152.

AN ACT

TO FIX THE LEGAL STATUS OF THE COUNTY SURVEYORS, TO PROVIDE FOR THE KEEPING OF RECORDS OF COUNTY SURVEYS AND FOR THE PERPETUATION OF CORNERS ESTABLISHED BY THE UNITED STATES SURVEYS, AND TO PROVIDE THAT COPIES OF THE PLATS AND FIELD NOTES FROM THE SURVEYOR GENERAL'S OFFICE AND VERIFIED REPORTS AND FIELD NOTES OF COUNTY SURVEYORS SHALL BE RECEIVED AS EVIDENCE IN THE COURTS OF THIS STATE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. No surveys or re-surveys hereafter made by the county surveyor or other surveyor, shall be considered legal evidence in any

court within the State, except such surveys as are made in accordance with the United States manual of surveying instructions, the circular on restoration of lost or obliterated corners and subdivision of sections, issued by the general land office, or by the authority of the United States, the State of Idaho or by mutual consent of the parties.

SEC. 2. When it shall appear that the county surveyor is interested in any tract of land, the title of which is in dispute before the court, the court shall direct the survey or re-survey to be made by some capable person, who is in no wise interested, who shall be authorized to administer oaths in the same manner as the county surveyor is directed to do, and shall return said survey or re-survey on oath, or affirmation, and shall receive for his services the same fees that the county surveyor would receive for like services.

SEC. 3. The surveyor of each county shall;

FIRST. Keep a fair and correct record of all official surveys made by himself or deputies in good and substantial books which shall be furnished him by the county commissioners for that purpose. All records of road surveys and county boundary lines to be kept in separate books. All of which records and accompanying plats he shall, at the expiration of his term of office, turn over to his successor in office, together with the records and plats received by him from his predecessor in office.

SECOND. Number his surveys progressively with date, township, range, section and name of party for whom it is executed. The mode of writing field notes and preparing plats shall be in the same manner as prescribed for the guidance of United States Deputy Surveyors, as nearly as practicable.

THIRD. Deliver a copy of any survey to any person or court requiring the same on payment of the fee allowed by law.

FOURTH. All corners established or re-established shall be of stone or other imperishable material placed securely in the ground and of such dimensions as are required by the U. S. manual. The marks so placed on said corners, when section or quarter section, shall be the same as prescribed by said U. S. manual, with the additional letters C. S. (for County Survey). All other corners in the interior of a section shall be so marked to indicate what they represent, in addition to the letters C. S. The same instructions apply to the marking of bearing trees and bearing objects.

SEC. 4. Any person owning or claiming lands which are divided by county lines, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of such land is situated, and such survey shall be as valid as though the lands were situated entirely within the county. Each chainman, or flagman, employed by the county surveyor or his deputy on an official survey shall, before commencing the duty assigned to him, take an oath (or affirmation) to faithfully and impartially execute the duties assigned to him, which oath (or affirmation) the county surveyor is authorized to administer. If a party for whom a survey is made does not furnish the chainman and markers, the surveyor may employ such necessary assistants, and receive a reasonable hire for all employed.

SEC. 5. Each county surveyor, before entering upon the duties of his office, shall file with the board of county commissioners a good and suffi-

cient bond in the sum of two thousand dollars, and with at least two sureties for the faithful and impartial performance of his duties.

SEC. 6. Whenever it shall be ordered by an act of the Legislature to establish the boundary line between two counties, the board of county commissioners of each county interested in the boundary, shall authorize the county surveyors of said counties to jointly establish said boundary and firmly plant and mark corners and monuments of imperishable material, also to prepare plats and field notes jointly, one copy of same shall be filed with the auditor and recorder of each of the counties so interested. The fees and compensations for such surveys, plats and field notes, as hereinafter provided, shall be paid out of the county treasury upon the order of the county commissioners of each county to the respective surveyors so employed.

SEC. 7. The board of county commissioners shall when necessary and recommended by the county surveyor, procure from the Surveyor General of the United States for the State of Idaho, a certified copy of the plats and extract of the field notes of the United States surveys or any part thereof lying within the county, and file the same in the office of county surveyor. No county surveyor, thus provided with plats and notes, when called upon to execute any survey, shall make any charge for furnishing the same. A copy from said plats and notes, certified to by the county surveyor, shall be legal evidence in any court.

SEC. 8. All surveys, maps and plats ordered by the board of county commissioners shall be made by the county surveyor, unless the office of county surveyor shall be vacant; in such case the surveyor appointed by the board shall be governed by the provisions of this Act in the performance of his duty, and shall receive the same fees that are allowed to county surveyors.

SEC. 9. The board of county commissioners shall furnish the county surveyor with all necessary blanks, record books, plat books, etc., for the keeping of notes and records, as herein required.

SEC. 10. The county surveyor shall be allowed fees for his services as follows: For the first corner established in accordance with this Act, \$1.00; for each additional corner 50 cents; for every survey less than eighty chains, \$2.50; for every chain over eighty chains, 3 cents per chain; for calculating the quantity of each tract of land, \$1.00; for recording field notes of each survey, 20 cents per folio; for making a certified copy of field notes 20 cents per folio; for making or copying maps or plats, 50 cents per hour; for traveling to place of survey, for each mile in going only, 15 cents; for surveying roads and county boundaries including the preparing and recording of plats and field notes, for each day necessarily engaged in field work, \$6.00; for surveys or re-surveys of town lots, \$3.00 for the first lot, and \$1.00 for each additional lot.

SEC. 11. All acts or parts of acts inconsistent with this Act are hereby repealed.

SEC. 12. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 16th day of February, 1899.

H. B. NO. 153.

AN ACT

TO REGULATE THE ASSESSMENT AND TAXATION OF LIVE STOCK WHEN KEPT, DRIVEN OR PASTURED, OR THAT MAY RANGE IN MORE THAN ONE COUNTY OF THIS STATE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. All live stock that is kept, driven or pastured, or that is suffered to range or graze, or that does range or graze, in more than one county of the State, during any fiscal year shall be subject to taxation in each of the counties in which it is so kept, driven or pastured or suffered to range or graze, or in which it does range or graze, in proportion to the time it is so kept, driven or pastured or suffered to range or graze, or does range or graze, in such county in any fiscal year, as hereinafter provided.

SEC. 2. All such live stock shall be assessed for taxation in the county in which it is situated, at the time fixed by the revenue laws to determine in what county property shall be assessed or if not in the State on that day shall be assessed in any county in which it may be found and first assessed, which county in which such live stock is so assessed, or liable to assessment, shall be known as its home county; and at the time of such assessment the owner of such live stock, or his agent shall make and deliver to the assessor a written statement under oath showing the number, description and different kinds of such live stock, within the county belonging to him, or under his charge, with their marks and brands when practicable, and showing the full time during the current fiscal year that said live stock, and every part, portion or kind thereof, has been and will be within the county; and such live stock and the owner thereof, shall be liable to said county for the taxes thereon at the rate of levy for all State, county and other purposes, as other property is liable; and the owner thereof shall, unless sufficient real estate amply to secure the same is liable therefor, pay the assessor at the time of such assessment, a proportionate part of said taxes for the full time that said live stock, or any part, portion or kind thereof, has been and will be within the county during said fiscal year, and take his receipt therefor.

SEC. 3. Whenever any such live stock is removed to or kept, driven or pastured, or suffered to range or graze, or does range or graze, in any county other than its home county, the owner thereof, or his agent, shall within ten days from the time that any such stock enters such other county, notify the assessor of said county of the number, description and different kinds, with their marks and brands when practicable, of such live stock belonging to him or in his possession or under his charge within said county, or that he expects to enter said county, and he shall make and deliver, and it shall be the duty of such assessor to demand a written statement under oath similar in all respects, as far as applicable to the statement required in the home county, showing the full length of time during the current fiscal year, that such live stock and every part, portion or kind thereof, has been and will be within such county; and such live stock and the owner thereof shall be liable to said county, for the part or portion of the taxes thereon, for the full length of time that such live stock has been and will be within said county, during said fiscal year, according to the rate or levy in said county for all State, county or other purposes, as other property in said county is liable; and such owner shall before any of said live stock leaves said county and within thirty days from the time that it

first enters said county, pay said taxes to the assessor of said county, and take his receipt therefor.

SEC. 4. Whenever any such live stock shall pass through a county and shall not be or remain therein longer than ten days in any fiscal year, they shall not be taxable in such county; but if any of such live stock shall be or remain in any county more than ten days in any fiscal year, they shall be taxable, as provided in the last preceding section, for the full length of time they remain in said county. And if any such live stock shall not be removed from any county on or before the expiration of the time mentioned in any such written statement as the time during which they will remain in said county, or before the expiration of the time for which the taxes have been paid on the same, it shall be the duty of the owner or his agent to at once seek the assessor of the county, and make an additional statement under oath, similar to that hereinbefore provided for, and stating the additional time which such live stock has been and will remain in said county within the fiscal year, and he shall at once pay the proportionate tax for such additional time and take the assessor's receipt therefor.

SEC. 5. As soon as any such live stock is returned to its home county, or if not so returned, then before the expiration of the fiscal year, the owner thereof to whom they were first assessed shall present the receipt received by him or any other person to whom he may have sold, showing what part of the fiscal year for which taxes have been paid in other counties under and in pursuance of the provisions of this Act, and such owner shall in addition to the taxes for the time mentioned in his said statement to the assessor of the home county, also pay to said assessor the proportionate taxes for any part of the fiscal year for which taxes have not been paid.

SEC. 6. All taxes that shall become due to any county under the provisions of this Act shall be a personal debt and demand against the owner to whom the property was first assessed, and may be enforced by any proper action in the name of the county, in any court of competent jurisdiction, and secured by attachment or other provisional remedy, which may be issued without undertaking or other security by or on behalf of the county; and said taxes shall be a first lien upon such live stock wherever found within the State, and a lien upon all real estate belonging to any owner of such live stock, situated within the county to which such taxes are due or payable, and such liens shall only be discharged by the actual payment of the taxes.

SEC. 7. Any owner or agent neglecting to give any notice to any assessor or refusing to make any statement, required by this Act, or making a willfully false statement, or removing or suffering to be removed, any such live stock from any county to evade the payment of any taxes payable to said county according to the provisions of this Act, shall be guilty of a misdemeanor and upon conviction shall be punished as provided by section 6313 of the Penal Code.

SEC. 8. The revenue laws as far as they are not in conflict with the this Act shall apply to the assessment and taxation of live stock, but all laws in conflict with this Act are hereby repealed.

SEC. 9. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 154.

AN ACT

PROVIDING FOR THE CONVEYANCE AND TRANSPORTATION OF CONVICTS FROM THE PLACE OF CONVICTION TO THE STATE PRISON; AND AMENDING SECTION 8504 AND SECTION 8008 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 8504 of the Revised Statutes of Idaho is hereby amended to read as follows: "Section 8504." When any person is convicted in any court of this State, and sentenced to imprisonment in the State prison, the sheriff of the county in which such conviction shall have been had, shall immediately upon the passing of sentence notify the Warden of the State prison that prisoners are in his custody awaiting transportation to the State prison. Such notice shall be sent by telegraph, if possible, directly from the place of conviction, but if there be no telegraphic communication between the place of conviction and Boise City, then such notice shall be sent by letter to the nearest telegraph station having telegraphic communication with said city, and transmitted from such station by telegraph to the said Warden. Immediately upon receipt of such notice, the Warden of the State prison shall forthwith dispatch one or more guards, as may be necessary, from said prison to the place where such convicted person is detained, to secure and convey said convicted person to the State prison. Such guard shall have authority to demand and receive the convicted person, and the certified copy of the judgment from the sheriff, and immediately upon the delivery of such convicted person to him, the said guard shall convey such convicted person to the State prison, and deliver him into the custody of the Warden thereof. *Provided:* That the judge of the court in which any person is convicted may, by order duly made, direct the sheriff of the county in which a term of court is being held, to withhold the notice herein provided for, until the last day of the then current term of said court, if said judge has reason to believe that more than one person will be convicted at said term. And *Provided further,* That nothing in this section contained shall be so construed as to apply to persons ordered into confinement in a county jail, as provided in section 8503.

SEC. 2. Section 8008 of the Revised Statutes is hereby amended to read as follows: "Section 8008." If judgment is for imprisonment in the State prison, the sheriff of the county must, upon a receipt of a certified copy of the judgment, hold the prisoner in his custody until demand for such prisoner is made upon him by the duly authorized guard of said prison, who may be sent to convey such prisoner to the State prison. When such demand is made upon the sheriff by said guard, the sheriff shall deliver the prisoner and said copy of the judgment to said guard, and take a receipt from said guard for the prisoner and said copy of the judgment.

SEC. 3. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists, this Act shall be in force from and after its passage.

Approved on the 13th day of February, 1899.

H. B. NO. 155.

AN ACT

LEGALIZING THE INCORPORATION OF THE VILLAGE OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AND THE ACTS OF H. L. BANCROFT, J. H. HARTE, A. H. BUTLER, JOHN CURRY AND R. R. SMITH, AS TRUSTEES OF SAID VILLAGE, BETWEEN THE FOURTH DAY OF JUNE, 1891, AND THE FOURTEENTH DAY OF APRIL, 1892.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the order of the board of commissioners, for Kootenai County, Idaho, made upon the twenty-second day of June, 1887, incorporating the town of Coeur d'Alene, in said county, is hereby legalized and made operative, and all acts of the officers of said town in pursuance of said incorporation and within the powers conferred thereby are hereby legalized and validated.

SEC. 2. That the acts of H. L. Bancroft, as chairman, and J. H. Harte, A. H. Butler, John Curry and R. R. Smith, members of the board of trustees of said village of Coeur d'Alene, between the fourth day of June, 1891, and the fourteenth day of April, 1892, including three days, being during a period when said board of trustees was acting under an order re-incorporating said village, which was declared illegal by the Supreme Court of this State, are hereby legalized and made valid, and all contracts and obligations incurred by such board of trustees, not inconsistent with the general and special powers conferred upon boards of trustees of towns and villages, are hereby legalized and made binding upon said village of Coeur d'Alene.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 156.

AN ACT

GOVERNING THE RECIPROCAL DUTIES OF PARENTS AND CHILDREN OF POOR PEOPLE; AMENDING SECTION 2531 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 2531 of the Revised Statutes of Idaho is hereby amended so as to read as follows:

Section 2531. It is the duty of the father, the mother and the child or children of any poor person who is unable to maintain himself or herself by work, to maintain such poor person to the extent of his, or her ability. And whenever any person shall apply for aid to any county within this State under its indigent laws, and it shall at any time appear to the county commissioners that said poor person has a father, mother, child or children who is able to maintain him or her, but fails so to do, it shall be the duty of the said commissioners to furnish all necessary aid and to bring a civil suit against such father, mother, child or children to recover the amount so expended, in the name of the county. The promise of an adult child to pay for necessities previously furnished to such parents is binding.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 157.

AN ACT

PRESCRIBING WHO MAY BE ADMITTED AS ATTORNEYS AND COUNSELORS; AMENDING SECTION 3990 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3990 of the Revised Statutes of the State of Idaho, be amended to read as follows: Section 3990. Any citizen or person, resident of this State, who has bona fida declared his intention to become a citizen in the manner required by law; of the age of twenty-one years, of good moral character, and who possesses the necessary qualifications of learning, and ability, is entitled to admission as attorney and counselor in all courts of this State.

SEC. 2. Whereas an emergency exists, therefore this Act shall be in force and effect from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 158.

AN ACT

PROVIDING WHEN PARENT ENTITLED TO GUARDIANSHIP OF MINOR; AMENDING SECTION 5774 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 5774, of the Revised Statutes of the State of Idaho is hereby amended to read as follows: Either the father or mother of a minor, being themselves respectively competent to transact their own business, and not otherwise unsuitable, must be entitled to the guardianship of the minor.

All acts and parts of acts inconsistent with this Act are hereby repealed.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 159

AN ACT

PROVIDING FOR THE SUSPENSION OR REMOVAL OF ATTORNEYS; AMENDING SECTION 4002 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 4002 of the Revised Statutes of Idaho, be and the same is hereby amended so as to read as follows: Section 4002. An attorney and counselor may be removed or suspended by the Supreme Court and by the district courts for either of the following causes, arising after his admission to practice: 1. His conviction of a felony or misdemeanor involving moral turpitude in which case the record of conviction is conclusive evidence. 2. Willful disobedience or violation of an order of the court, requiring him to do or forbear, an act connected with or in course of his profession and any violation of the oath taken by him or his duties as such attorney and counselor. 3. Corruptly and without authority appearing as attorney for a party to an action or proceeding. 4. Lending his name to be used as an attorney and counselor by any other person who is not an attorney and counselor. 5. Failure for ten days after written demand, and payment or tender of the fees and expenses due him from his client to pay over or deliver any money or other property belonging to his

client which he shall have received in his office of attorney or counselor in the course of collection or settlement of any claim or demand. 6. Habitual intemperance to such an extent that it disqualifies such attorney from faithfully discharging the duties devolving upon him. And in all cases where an attorney is removed or suspended by a district court, the judgment or order of removal or suspension may be reviewed on appeal by the Supreme Court.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 160.

AN ACT

CONCERNING THE DISTRIBUTION OF THE WATERS OF STREAMS WHERE THE SAME HAVE BEEN ALLOTTED BY DECREE OF THE COURT AND PROVIDING FOR THE PAYMENT OF WATER-MASTERS' SALARY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That whenever the users of the waters of any stream that have been allotted by decree of the court, fail to elect a watermaster as provided in section 3200 of the Revised Statutes, the district judge of the district in which said stream is situate shall upon a petition of at least ten of the users and claimants of the water of said stream appoint a watermaster who shall be governed by the provisions of chapter 3, of title 9, of the Revised Statutes, so far as the same is applicable together with the provisions of this Act.

SEC. 2. Such watermaster shall at once enter upon the discharge of his duties, and immediately, in person, notify each claimant of water, as shown by decree of the court in person, to immediately construct head gates at the heads of their ditch, or ditches, of a substantial nature, which head gates shall be so constructed as to prevent overflow of the waters of said stream during the periods of high water, and shall be of double compartments, and the watermaster shall place a substantial lock on each head gate, so as to regulate the flow of water, and no one but the watermaster or his deputy shall have the possession of the key, or keys, that belong to said locks.

SEC. 3. That during the irrigating season, said watermaster, shall patrol said stream on either side, and shall examine the head gates described in section 2, of this Act, as frequently as twice each week and regulate the same as directed and required by the provisions of this Act.

SEC. 4. To aid him in the discharge of his duties, such watermaster shall procure a copy of the decree of the court allotting the water of such stream, and shall in the distribution of such water be governed by such decree, distributing such water to those prior in right, as such decree has awarded.

SEC. 5. Such watermaster and his deputies, shall receive such compensation as may be agreed upon between himself and the users of the water of said stream. But if no agreement is made, they shall receive such compensation as the judge of the court of such judicial district shall allow.

SEC. 6. Said watermaster shall make up a sworn statement and file

the same with the auditor and recorder of the county or counties through, or into which, said streams shall run or enter. Such statement shall show the number of days said watermaster has devoted to the distribution of such water, and the number of days his deputy or deputies have devoted to the same purpose, and he shall also at the same time file a statement with said officer showing the amount of water he has by virtue of such decree of the court distributed to each individual, and describe the lands upon which said water was used.

SEC. 7. The county auditor and recorder shall thereupon apportion the whole of the expenses of watermaster and deputies to the several users of water as shown by such statement, in proportion to the amount of water distributed to each individual user of such water, and shall notify each person to whom he has by the terms of this Act apportioned, such expenses of the amount of his liability on said charge of the watermaster as shown by the number of days claimed by the watermaster and deputy, and the per diem agreed upon or fixed by the judge as the case may be.

SEC. 8. The county auditor and recorder shall collect said sums from each person, as shown by such apportionment, and unless the same is paid on or before the first day of January next succeeding such irrigating season, or as much as shall not be so paid, shall thereafter become a lien on the lands owned by such delinquents, and shall be added to the amount against said lands, by the assessor, the succeeding year, under the head of "delinquent water tax."

SEC. 9. So much of said sums as the auditor and recorder shall collect, shall be paid over to the watermaster, and be receipted for by him. And the amount yet unpaid on the date of the regular meeting of the board of county commissioners, in January, shall become a charge against the county, and shall be paid for by the board of county commissioners, by issuing to said watermaster a warrant on the current expense fund of the county.

SEC. 10. It shall be the duty of the county recorder to certify all delinquents to the assessor on or before the first day of March, and the assessor shall add to the delinquent amount, as "Watermaster Tax," and collect the same as other taxes, and the same shall constitute a lien upon the real estate, to which said water attaches, and belongs, by virtue of such decree of the court referred to in this Act.

SEC. 11. Should any of the water claimants fail or refuse to construct suitable head gates as provided for in this Act, the watermaster shall cause the same to be done, and charge the same up to such water user, and such amount shall be added to the liabilities of such persons, as expenses of distribution of water for that season.

SEC. 12. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved on the 2nd day of March, 1899.

H. B. No. 161.

AN ACT

PREScribing THE DUTY OF THE COURT REVERSING A JUDGMENT WHERE NEW TRIAL IS NOT ORDERED, AMENDING SECTION 8074 REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 8074 of the Revised Statutes of Idaho be amended to read as follows: Section 8074. If a judgment against a defendant is reversed without ordering a new trial, the appellate court must, if he is in custody direct him to be discharged therefrom; or if bail, that his bail be exonerated; or if money was deposited instead of bail that it be refunded to defendant. A certified copy of the judgment shall immediately be served upon the officer having the defendant in custody, which shall be his warrant for discharging him from custody or imprisonment.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 21st day of February, 1899.

H. B. NO. 162.

AN ACT

REGULATING THE SALE OF ESTRAYS, AND PROVIDING FOR THE BRANDING OF THE SAME, AMENDING SECTION 1365 REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1365 of the Revised Statutes of the State of Idaho, be amended so as to read as follows: Section 1365. If any person entitled to the possession of any estray does not appear and substantiate his title thereto, and pay the charges thereon, within two months from the time when such notice is filed with the county auditor, such estray must be sold at the request of the taker-up, by the sheriff or any constable of the county, living nearest the place of sale, at public auction, upon first giving public notice thereof in writing, by posting up the same in three of the most public places in the precinct, where such estray was taken up, at least ten days before such sale; and the taker-up may bid thereon at such sale; and after deducting all the lawful charges of the taker-up, as aforesaid, and the fees of the sheriff or constable, which are the same as on an execution; the remaining proceeds of such sale must be deposited in the county treasury. Any estray sold as herein provided, shall be branded by the sheriff or constable, making such sale, with an estray brand as follows:

A circle with an initial letter E in the center  the same to be placed on

the left side, or ribs, of all the horned stock, and on the left shoulder of all other stock. The branding irons for such purpose shall be furnished by each respective county in Idaho; and the sheriff or constable, making such sale shall receive, for his services, the sum of fifty cents per head for each animal so branded.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved on the 21st day of February, 1899.

H. B. NO. 163.

AN ACT

TO PROVIDE FOR THE ELECTION OF ROAD OVERSEERS BY THE QUALIFIED ELECTORS OF ROAD DISTRICTS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the qualified electors of each road district in the several counties of the State, shall meet on the first Monday in December of each year, at 1 o'clock p. m., and proceed to elect a road overseer.

SEC. 2. Notice of such election, and the place of holding the same, may be given by any five of the qualified electors of the road district, by posting notices at least ten days previous, to the time of holding such election, in at least three of the most public places in such road district. The place of holding such election shall be as nearly as practicable in the center of such road district.

SEC. 3. Said election to be conducted in the same manner as school elections, and immediately after the assemblage of such electors, they shall elect a judge and clerk from their number, who shall serve as judge and clerk of such election without compensation.

SEC. 4. The candidate receiving the highest number of votes cast for such overseer at such election, shall be declared duly elected and shall be so certified to the clerk of the board of county commissioners of the county, by the judge and clerk of such election. The clerk of the board of county commissioners shall prepare a certificate of election, in accordance with the returns so made, and the person receiving such certificate shall, before entering upon his duties as such road overseer, furnish a good and sufficient bond in the sum of three hundred dollars, in favor of the county, and approved by the board of county commissioners, and the said overseer, when such bond is approved, shall, further, before entering upon his duties, take and subscribe to the usual oath of office.

SEC. 5. In case of vacancy or of failure to elect such road overseer, the board of county commissioners shall upon petition, appoint an overseer, who shall serve for the unexpired term. But for cause of neglect of duty, or for neglecting to care for tools, or machinery, belonging to the district, or upon a petition from said district, the board of commissioners may declare such office vacant, and the electors of said district shall elect another overseer as provided for in this Act.

SEC. 6. All acts and parts of acts in conflict with this Act, are hereby repealed.

SEC. 7. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 164.

AN ACT

TO ESTABLISH THE OFFICE OF COUNTY SUPERINTENDENT OF PUBLIC INSTRUCTION, AND PRESCRIBING THE DUTIES OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. At the next ensuing general election after the passage of this Act, there shall be elected in each county in the State of Idaho, a superintendent of public instruction, who shall reside at the county seat of the county in which he is elected, and who shall hold his office for a term of two years, from and after his taking charge of the same and until his successor has been elected and qualified.

SEC. 2. Before entering upon the duties of his office the county superintendent of public instruction shall take and subscribe the oath prescribed by law and execute a bond, payable to the State of Idaho, with two or more sureties to be approved by the board of county commissioners, in the penal sum of not less than two thousand dollars, conditioned upon the faithful performance of his official duties, and the delivery of all moneys and property received by him as such superintendent to his successor in office, which bond shall be filed in the office of the county recorder; which official bond together with his official oath, shall be filed in the office of the county recorder as aforesaid, not later than the second Monday in January, next after election: *Provided*, That no person shall be eligible to the office of county superintendent of public instruction except a practical teacher of not less than two years experience and the holder of a valid first grade certificate, at the time of his election or appointment.

SEC. 3. The county superintendent of public instruction shall have charge and oversight of the public schools of his county, and it shall be his duty to visit every public school in his county at least once during each term and remain at said public school at least one-half day; at such visits he shall carefully observe the methods employed by the teacher in giving instruction in the several branches taught; the manner of discipline and government, the classification of the pupils, and general management of the school, and shall give the school such instruction and encouragement as he deems for the best interests of all concerned, and he shall make such suggestions to the teacher in private as, in his judgment, will render the said teacher more efficient, and promote the general educational interests of the district.

SEC. 4. The county commissioners shall furnish the county superintendent of public instruction an office in the county seat, and they shall furnish him with all necessary office furniture, including seal and blank books, stationery, postage, expressage, all blanks necessary for his office, and all blank books and blanks necessary for the use of the trustees and teachers in the discharge of their respective official duties within his county. The county superintendent of public instruction shall designate certain days in each month as his office days, which shall not be less than five in any month, and upon these days so designated by him, he shall keep his office open from 9 o'clock a. m. until 5 o'clock p. m.

SEC. 5. He may, in his discretion, require the trustees in any district to repair the school buildings or property, or to abate any nuisance in and about the premises, if such repair or abatement can be done for a sum not to exceed seventy-five dollars; *Provided*, There is a sufficient amount of money in the treasury to the credit of the district. He may also in all cases, require the trustees to provide suitable outhouses; and in case the trustees fail to make such provision within a reasonable time, he may cause it to be done, and draw an order for a warrant, as hereinafter provided, upon the county auditor for said expenses, who shall draw his warrant payable out of any money to the credit of such district.

SEC. 6. He shall keep a complete record of all his official acts; preserve all blanks, maps, charts and apparatus, sent him as such officer, and file all papers, reports and statements from teachers and school boards; keep a register of all teachers employed in his county, giving name of teacher, number of district, salary per month, grade of certificate and date

of superintendent's visit. He shall obey the legal instructions of the State Superintendent.

SEC. 7. He shall hold one regular public examination in each year for the purpose of examining all persons who may offer themselves as teachers in the public schools; said examination to be held in some suitable room at the county seat, and commencing on the fourth Thursday of August and continuing not to exceed three days. And for a like purpose the said county superintendent shall hold not to exceed three special examinations at such times and places, as in his judgment the interests of the schools and teachers of the county shall require; *Provided*, That it shall be the duty of the county superintendent to give at least fifteen days notice of such regular and special public examinations in some newspaper published in the county.

SEC. 8. He shall grant certificates to teachers in such form as the State Superintendent of Public Instruction shall prescribe, and to those persons only who shall have attained the age of eighteen years, who have [attended] the said public examination and shall be found to possess good moral character, thorough scholarship, and the ability to instruct and govern a school; but no certificate shall be granted to any person who shall not pass a satisfactory examination in orthography, reading, writing, grammar, arithmetic, geography, history of the United States, civil government, physiology and hygiene, with particular reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system, theory and practice of teaching, State Constitution, and so much of the general school law as relates to the duties and responsibilities of teaching. All certificates shall be signed by the county superintendent, and no person shall be considered a qualified teacher within the meaning of the school law, who has not a certificate granted by the said superintendent or other lawful authority; *Provided*, That all examination questions shall have been prepared as prescribed by law, furnished under seal and opened before the applicants for certificates on the day of examination; *Provided*, That first grade certificates shall be granted to all applicants who are otherwise qualified according to law, and who shall have passed all the branches required in this section, and algebra in addition thereto, with a general average of not less than ninety per cent; and with a minimum of not less than seventy-five per cent in any branch, and all applicants who are otherwise qualified according to law, shall be granted second grade certificates who shall have attained a general average of eighty per cent, and a minimum in any branch of not less than seventy per cent, and third grade certificates shall be granted to all applicants who are otherwise qualified according to law, who shall have attained a general average of seventy-five per cent, and a minimum in any branch of not less than sixty per cent. *Provided, further*, That each applicant for teacher's certificate under the provisions of this Act shall pay the county superintendent the sum of one dollar, the same to be deposited by him in the county treasury to the credit of the institute fund, to be used in institute work, in addition to the regular appropriation.

SEC. 9. The certificates issued by the county superintendent, subject to the rules and regulations prescribed by the State Superintendent, shall be of three grades: (1). First grades, which shall be valid in the county in which they are issued for a term of three years from the date thereof unless sooner revoked, and they shall be good in any county in the State for the

same period by the holder thereof filing a certified copy of the same with the county superintendent in the county in which he desires to teach. (2). Second grade certificates, which shall entitle the holder to teach in the county in and for which they are issued, for a term of two years. (3). Third grades, which shall be valid in the county where issued for a term of one year.

SEC. 10. The county superintendent of public instruction shall have power to revoke any teacher's certificate, other than those granted by the State Superintendent, for neglect of duty, for incompetency to instruct and govern a school, for immorality or for any cause or disqualification which would have been sufficient ground for refusing to issue the same, had the cause existed or been known at the time of its issue; *Provided*, That no certificate shall be revoked or annulled without a personal hearing, unless the holder thereof, shall after reasonable notice, neglect or refuse to appear before the superintendent for that purpose.

SEC. 11. He shall keep a record of all certificates granted or revoked, showing to whom issued, age of grantee, date of issue, grade and duration of each certificate, and if revoked, date and reason therefor.

SEC. 12. He shall, on or before the first day of October in each year, make and transmit an annual report to the State Superintendent for the school year ending August 31st, next preceding, which report shall contain an abstract of all reports made to him by the district clerks of the several districts of the county, together with such statistics, items and statements, relative to the schools of the county, as may be required and prescribed by the State Superintendent. Such reports shall be made upon and conform to the blanks furnished by the State Superintendent for that purpose. He shall inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the clerk of the board of county commissioners, and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting or incorrectly described, he shall report such fact to the board of county commissioners at their regular meeting in July, and such board shall immediately take such steps as are necessary to change, harmonize and clearly define them. The county superintendent, if he deem it necessary for the guidance of school census marshals, may order the description of the district boundaries printed in pamphlet form, to be paid out of current expense fund of the county.

SEC. 13. The county superintendent shall appoint trustees for all newly organized school districts who shall serve until the next regular election, fill all vacancies that may occur in the board of trustees by reason of death, resignation or otherwise, and such appointment shall hold until the next regular election.

SEC. 14. The county superintendent shall be allowed all necessary expenses incurred in the examination of teachers, for blanks, books, stationery, pens and ink, out of the current expense fund of the county.

SEC. 15. The county superintendent shall require of the county treasurer quarterly each year, a report of the amount of money on hand to the credit of the school fund of each county, not already apportioned, and the county treasurer shall furnish such report when so required. The county superintendent upon receiving such report shall proceed to apportion the public school moneys, both county and State, reported by the county treas-

urer, to be in the county treasury, among the several school districts in the following manner, to-wit: One-third of the whole amount he shall divide equally among the several districts that have complied with the provisions of this Act. The remaining two-thirds of said whole amount he shall apportion per capita among the several districts in proportion to the number of children in each district as shown by the last report of the census marshal of each district, and credit each district with the amount to which apportionment entitles; *Provided*, That each district is entitled to one share in the apportionment of the first one-third, regardless of the number of children therein. Immediately after such apportionment he shall certify to the county treasurer the amounts which are to be placed to the credit of each district and notify the clerk of each district of the amount placed to the credit of his district.

SEC. 16. If the county superintendent fails to make a full and correct report to the State Superintendent of Public Instruction of all statements required by law to be made, he forfeits the sum of one hundred dollars from any moneys due him from the county, and the board of county commissioners are hereby authorized and required to deduct therefrom the sum aforesaid upon information from the State Superintendent of Public Instruction, that such reports have not been made.

SEC. 17. No certificate shall be granted or teacher employed in any of the public schools of this State to any person not a citizen of the United States.

SEC. 18. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 19. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 17th day of February, 1899.

H. B. NO. 165.

AN ACT

AMENDING THE CHARTER OF THE CITY OF BOISE; AMENDING SECTIONS 3, 5, AND 9, OF AN ACT INCORPORATING THE CITY OF BOISE, APPROVED JANUARY 11, 1866, BEING SECTIONS 130, 132 AND 138 OF THE SPECIAL AND LOCAL LAWS OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section 3 of said act is hereby amended to read as follows: For the government of said city there shall be elected biennially a mayor, a common council consisting of three members from each ward, a city clerk, a tax collector, a treasurer, a city attorney and an assessor. The mayor and common council shall appoint a police magistrate, a chief of police, a street commissioner, a city engineer and such other officers as they shall think necessary, and shall define their duties and fix their compensation; and may remove any appointed officer from office for any cause in their judgment sufficient. The mayor and common council shall receive no compensation. The mayor shall preside at all meetings of the council, and shall have the casting vote in case of a tie vote upon the election of officers, or upon any other question; all ordinances shall be presented to him, and if he approve, he shall sign the same, but if he do not approve, he shall return the same with his objections to the council, or file the same with the city clerk, within three days, after which the same shall not become a law unless passed by an affirmative vote of two-thirds of the entire council. Ordinances passed by the council but not approved by the mayor shall be in full force and effect if they be not

returned to the council, or filed with the clerk within three days, as above provided. "The boundaries of the three wards of said city shall be the same as are the present voting precincts of said city for general election purposes within said city, and the same are hereby made and declared to be the wards of Boise City for municipal purposes and each of said wards shall elect by the votes of its own legal voters, all members of the common council to which it shall be entitled."

SEC. 2. Section 5 of said Act is hereby amended to read as follows: The mayor and common council shall have full power and authority within Boise City:

FIRST. To assess, levy and collect taxes for general municipal purposes not to exceed one-half of one per centum per annum upon all property, both real and personal, which is taxable by law for State or county purposes.

SECOND. To license, tax and regulate auctioneers, taverns, hawkers, peddlers, pawnbrokers, wash-houses, and occupations offensive to the senses or noxious to health.

THIRD. To license, tax and regulate hacks, cabs, hackneys, carriages, wagons, carts, drays, or other vehicles, and to fix the rate thereof.

FOURTH. To regulate and restrain, in their discretion, upon special application, to license and tax the sale of liquors in less quantities than one quart, barrooms, liquor saloons, drinking shops, theatrical and other exhibitions, shows, public amusements, billiard tables, bowling alleys, gaming and gambling houses, and to require bonds with sureties from the proprietors of the same, conditioned not to keep, allow or permit a disorderly house: and to cancel and revoke every such license, in their discretion; *Provided*, That no State or county license shall authorize any person to engage in or conduct any business or thing in this or the two preceding subdivisions enumerated, within said Boise City, unless a license is first obtained from said city council, and the council may provide a penalty therefor.

FIFTH. To suppress, or in their discretion, to license and regulate bawdy houses and houses of ill fame and the keepers and occupants thereof in said city, or in any part of said city.

SIXTH. To suppress opium dens, and any house or place kept or used as a resort for the purpose of smoking opium, and to provide by ordinance for the punishment of any person or persons who shall set up, open, or cause to be opened, or keep any house or place as a resort for the purpose of smoking opium, or who shall vend, or give away opium for the purpose of being smoked upon the premises, or who shall bargain for, buy, take or accept any opium in any house or place, to be smoked upon the premises, or who shall be found in any house or place kept or used as a resort for the purpose of smoking opium, or who shall smoke opium in any house not the dwelling house of such person or persons.

SEVENTH. To make regulations to prevent the introduction of contagious diseases in the city; to remove persons affected with such diseases therefrom to suitable hospitals provided by the city for that purpose; to secure the protection of persons and property therein, and to provide for the health, cleanliness, ornament, peace and good order of the city.

EIGHTH. To prevent and abate nuisances, and to punish those occasioning them, or neglecting or refusing to abate, discontinue or remove the

same, and generally to determine and declare what shall be deemed nuisances; and to provide for the removal or abatement by the officers of the city at the cost of the person responsible for or causing or permitting the same to continue on the premises, which such cost may be recovered in an action against such person in any court of competent jurisdiction. For the preservation of the health of the inhabitants of the city, said city council is empowered to abate any nuisance within two miles of the limits of said city, by or because of which the water flowing in any river, creek, ditch or canal running through or into the city, is contaminated and liable to endanger the health of said inhabitants; and in case of such nuisances said council shall have the same powers as if such nuisances existed within the corporate limits of said city.

NINTH. To provide the city with good and wholesome water, by contract or otherwise and for the erection or construction of such water works and reservoirs within or without the limits of the city, as may be necessary or convenient therefor.

TENTH. To provide for lighting the streets, and furnishing the city with gas or other light, and for the erection or construction of such works as may be necessary or convenient therefor.

ELEVENTH. To provide for the support, restraint and employment of vagrants and paupers.

TWELFTH. To provide for the prevention and extinguishment of fires and the preservation of property endangered thereby; to establish, alter and change fire limits, and to regulate the erection of buildings and improvements within such fire limits, and the materials to be used therefor; to control and regulate the fire department, and to provide by ordinance for the officers thereof, and the election of unpaid officers by the members of such fire department, and to define the duties of paid officers, and to remove them from office for good cause shown.

THIRTEENTH. To determine and regulate the number of day and night police, or either of them; to provide for paying the same, and to regulate and fix the compensation of the policemen, the keeper of the city prison and of the house of correction.

FOURTEENTH. To provide for the prevention and removal of encroachments and obstructions of, in or upon streets, alleys, sidewalks, avenues, lanes or other highways of the city; also for the sprinkling, cleaning and repairing of the same at the cost of owners of abutting property.

FIFTEENTH. To establish a public pound, and to restrain and regulate the running at large of cattle, horses, swine, sheep, dogs and other animals, within the limits of the corporation; and to authorize and regulate, by ordinance, distraining, impounding, and sale of the same, for the penalty imposed and the costs of the proceedings; and to authorize the destruction of dogs when at large, contrary to any prohibition of any such ordinance.

SIXTEENTH. To provide for the establishment of market houses and places, and to regulate the location and management of market houses and places, and to regulate the location and management of slaughter houses, and in their discretion, to prohibit slaughter houses within the limits of said city.

SEVENTEENTH. To provide for the erection of a city jail, house of correction, and work house, and for the government and management of the same.

EIGHTEENTH. To regulate the storage and sale of gun powder, or other combustible material, and to prevent by all possible and proper means, danger or risk of injury or damage by fire arising from carelessness, negligence or otherwise.

NINETEENTH. To restrain and punish any disturbance, or any unlawful or indecent practice.

TWENTIETH. To establish and regulate the fees and compensation of all officers of this municipal corporation, except when otherwise provided.

TWENTY-FIRST. To provide for the punishment of a violation of any ordinance of the city, by fine or imprisonment, not exceeding one hundred dollars, or twenty days, or both, or by a forfeiture or penalty not exceeding one hundred dollars; and for working any person sentenced to such imprisonment upon the streets or the public squares during the term thereof.

TWENTY-SECOND. To levy and collect a special tax of not exceeding one per centum per annum, upon all the property assessed by authority of the first subdivision of this section, for any specific object within the authority of this municipal corporation, including the payment of any existing debt; but the ordinance providing therefor must specify the object thereof, and the estimated amount therefor.

TWENTY-THIRD. To borrow money on the faith of the city, or loan the credit thereof, or both. But the total indebtedness of the city shall at no time exceed fifteen per cent of the assessed valuation of said city.

TWENTY-FOURTH. To appropriate money to pay the debts, liabilities and expenditures of the city, or any part or item thereof, from any fund applicable thereto.

TWENTY-FIFTH. To provide for a survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets.

TWENTY-SIXTH. To open and establish streets, avenues, lanes and alleys and widen the same, and for that purpose to condemn property for the city use, under such regulations as are or may be provided by law. To grade, pave, plank, macadamize, gravel, curb or otherwise improve, repair or beautify the highways, streets, avenues, lanes, alleys and sidewalks of the city; and to provide for the payment of the expense thereof, to levy special assessments upon property that is contiguous to or abutting or fronting upon the highway, street, avenue, lane, alley or sidewalk, to be graded, paved, planked, graveled, curbed, macadamized or otherwise improved or beautified, by such ordinances as in the opinion of the city council shall secure a just and equitable apportionment of such assessments among the lots or parcels of such contiguous, abutting or fronting property. Special assessments so levied shall constitute a lien upon the property assessed and the payment thereof may be enforced as the payment of taxes on real estate is enforced in said city.

TWENTY-SEVENTH. To divide the city in convenient sewer districts, and upon petition of a majority of the resident property owners of any such district to provide for the construction of, and to construct sewers within such district; the expense thereof to be defrayed by special assessments upon the property contiguous to, or abutting or fronting upon the street, alley, avenue, or lane through or along, or on the line of which the sewer may run. Such special assessments to be apportioned, levied

and collected in the same manner as provided in subdivision 26 of this section.

TWENTY-EIGHTH. To fill any vacancy in their number, or in any city office, and the person so appointed shall serve until the next city election, and until his successor is elected and qualified.

TWENTY-NINTH. To divide the city into wards, not less than three in number, as nearly equal in population as may be, to designate voting places therein, and to appoint two judges and one clerk of election in each ward for the conducting of city elections. And each ward shall elect by the voters thereof the member or members of the city council to which said ward is entitled. Except as herein otherwise provided, the general election laws of the State relative to judges and clerks of election shall apply to, and govern the judges and clerks herein provided for.

THIRTIETH. To exercise such power and authority as may be given to the council elsewhere in this Act or by the laws of this State. The powers and authority conferred by this section may be enforced or exercised by ordinances, unless otherwise expressly provided; and the city council may pass any ordinance not repugnant to the Constitution and laws of the United States, or the laws of this State, necessary or convenient for carrying such powers and authority or any part thereof into effect. Such city council may also make all needful by-laws, ordinances and regulations not repugnant to the Constitution and laws of the United States, or of this State, and prescribe their own rules for doing business, and may elect any member to preside at their meetings in or during the absence of the mayor.

SEC. 3. Section 9 of said act is hereby amended to read as follows: The police magistrate shall have power to hear all complaints for violations of city ordinances and to punish, by fine or imprisonment, or both, any violation of said ordinances, but no such fine shall exceed one hundred dollars, nor shall any such imprisonment exceed twenty days in the city jail.

SEC. 4. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 21st day of February, 1899.

H. B. NO. 166.

AN ACT

TO REGULATE THE COMPILING OF ABSTRACTS OF TITLE IN THE STATE OF IDAHO, AND TO PROVIDE FOR THE INTRODUCTION OF THE SAME IN CIVIL ACTIONS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be unlawful for any person or persons to engage in the business of compiling of abstracts of title to real estate, in the State of Idaho, and demand and receive pay for the same, without first filing in the office of the probate judge, of the county in which such business is conducted, a bond to the State of Idaho in the penal sum of ten thousand dollars with not less than three sureties residents of the county conditioned for the payment by such abstractors of any or all damages that may accrue to any party or parties by reason of any error, deficiency or mistake in any abstract or certificate of title made, and issued by such person or persons.

SEC. 2. The probate judge shall be provided with a suitable register, for entering and registering the names of all abstractors, who qualify, and

receive a certificate, and shall be entitled to a fee, of two dollars for each and every certificate so issued.

SEC. 3. When any abstractor shall have duly filed his bond as above provided, he shall be entitled to receive a certificate from such probate judge, that said bond has been by him duly approved, and filed for record, which certificate shall be valid so long as such abstractor shall maintain his surety upon the bonds as herein provided for unimpaired, and the possession of such valid certificate at the date of issuance of any abstract shall entitle such abstract of title to real estate, certified to, and issued by such abstractor to be received in all courts as prima facie evidence, of the existence of the record of deeds, mortgages and other instruments, conveyances, or liens affecting the real estate, mentioned in such abstract, and that such record is as described in said abstract of title.

SEC. 4. Any party to a civil action who may desire to use in evidence at the trial thereof any abstract of title to real estate as herein provided, shall furnish to the opposing party or his attorneys a copy of such abstract at least three days before the trial of said action, and in case such real estate be not in the county where such trial is to take place, then such copy shall be furnished to the opposing party or his attorney, to allow a sufficient number of days such opposing party to proceed by the usual route of travel, to the county seat of a county where such real estate may be situated and return to the place of trial in addition to the three days for preparation above provided for.

SEC. 5. The bond herein provided for may run during the continuance of said person or persons in said abstract business, not to exceed five years, and the probate judge of the county where the bond herein provided for, may be filed, may, at any time upon complaint of any owner of real estate in his county, require such abstractor, upon ten days notice to give additional security upon said bond, and show cause why the same should not be declared invalid, and the certificate thereof recalled, and annulled, and if within such time, the additional security to be approved by said probate judge, be not furnished, and no sufficient reason to show to the judge why the same should not be required, the said bond shall be declared invalid, and the certificate thereof recalled and cancelled.

SEC. 6. The abstractor of complainant may have an appeal to the district court from such decision of the probate judge by preserving the evidence taken at the hearing which shall be certified up by such judge, and such appeal shall be summarily decided by the court upon such evidence, and the cost of such appeal, including the furnishing of such evidence, shall be adjudged against the defeated party.

SEC. 7. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 167.

AN ACT

REGULATING THE RATE OF INTEREST ON MONEY, AMENDING SECTIONS 1263 AND 1264 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That sections 1263 and 1264 of the Revised Statutes of Idaho are hereby amended to read as follows:

Section 1263. When there is no express contract in writing fixing a different rate of interest, interest is allowed at the rate of seven cents on the hundred by the year on: 1. Money due by express contract. 2. Money after the same becomes due. 3. Money lent. 4. Money due on the judgment of any competent court or tribunal. 5. Money received to the use of another and retained beyond a reasonable time without the owner's consent, express or implied. 6. Money due on the settlement of mutual accounts from the date the balance is ascertained. 7. Money due upon open accounts after three months from the date of the last item.

Section 1264. Parties may agree in writing for the payment of any rate of interest on money due or to become due on any contract not to exceed the sum of 12 per cent. per annum; any judgment rendered on such contract shall bear interest at the rate of seven per cent. per annum until satisfied.

SEC. 2. All acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 168

AN ACT

REGULATING THE TIME AND MANNER OF DISCHARGING AN INSOLVENT FROM HIS DEBTS AFTER ADJUDICATION IN INSOLVENCY, AMENDING SECTION 5914 REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 5914 of the Revised Statutes is amended to read as follows:

Section 5914. At any time after the expiration of three months from the adjudication of insolvency, the debtor may apply to the court, or the judge thereof at chambers, for a discharge from his debt, and the court, or the judge thereof, either in open court, or in chambers, must thereupon order notice to be given to all creditors who have proved their debts, to appear on a day appointed for that purpose in open court, and show cause why a discharge should not be granted to the debtor; said notice must be given either by serving at least thirty days before the day set for the hearing, a copy thereof personally on each creditor who has proved his claim, or his attorney; or by the clerk of the court mailing to each of said creditors who have proved their claims, a copy of said notice properly addressed to each of said creditors at his place of residence or business, postage prepaid; which said notice must be mailed at least thirty days before the day set for the hearing, or if any creditor have an attorney, said notice may be served upon said attorney: *Provided*, That if no debts have been proved, such notice is not required.

SEC. 2. Whereas, an emergency exists, this Act shall take effect from and after its approval by the Governor.

Approved on the 18th day of February, 1899.

H. B. NO. 169.

AN ACT

TO PROTECT LABELS AND TRADE MARKS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever any person, or any association or union of workmen, has heretofore adopted or used, or shall hereafter adopt or use any

label, trade mark; term, design, device or form of advertisement, for the purpose of designating, making known, or distinguishing any goods, ware, merchandise, or other products of labor, as having been made, manufactured, produced, prepared, packed or put on sale, by such person, or association, or union of working-men or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade mark, term, design, device or form of advertisement; or to use, sell, offer for sale, or in any way utter, or circulate any counterfeit, or imitation of any such label, trade mark, term, design, device or form of advertisement.

SEC. 2. Whoever counterfeits or imitates any such label, trade mark, term, design, device or form of advertisement, or sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which, any such counterfeit, or imitation is attached, affixed, printed, painted, stamped, or impressed; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be guilty of a misdemeanor and be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than three months.

SEC. 3. Every such person, association or union, that has heretofore adopted or used, or shall hereafter, adopt or use, a label, trade mark, term, design, device or form of advertisement, as provided in section 1 of this Act, may file the same for record in the office of the Secretary of State, by leaving two copies, counterparts or facsimiles thereof, with said Secretary and by filing therewith, a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be, appropriated, stating that the party so filing or on whose behalf such label, trade mark, term, design, device, or form, of advertisement shall be filed, has the right to the use of the same; that no other person, firm, association, union or corporation, has a right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one dollar. Said Secretary shall deliver to such person, association, or union, so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said Secretary shall receive a fee of one dollar. Any such certificate of record shall, in all suits and prosecutions under this Act be sufficient proof of the adoption of such label, trade mark, term, design, device or form of advertisement. Said Secretary of State shall not record for any person, union, or association, any label, trade

mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade mark, term, design, device, or form of advertisement theretofore filed by, or on behalf of any other person, union, or association.

SEC. 4. Any person who shall for himself or on behalf of any other person, association or union procure the filing of any label, trade mark, term, design or form of advertisement in the office of the Secretary of State under the provisions of this Act, by making any false or fraudulent representations or declarations, verbally or in writing or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by, or on behalf of the party injured thereby, in any court having jurisdiction and shall be guilty of misdemeanor, and be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months.

SEC. 5. Every such person, association or union adopting or using a label, trade mark, term, design, device or form of advertisement as aforesaid may proceed by suit, to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture and may award the complainant in any such suit, damages resulting from such manufacture, use, sale or display, as may be by the said court, deemed just and reasonable, and shall require the defendants to pay to such persons, association, or union, all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant to be destroyed.

SEC. 6. Every person who shall use or display the genuine label, trade mark, term, design, device or form of advertisement of any such person, association or union, in any manner, not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not more than three months or by fine of not more than one hundred dollars (\$100.00.) In all cases where such association or union is not incorporated, suits under this Act may be commenced, and prosecuted by an officer or members of such association or union on behalf of, and for the use of such association or union.

SEC. 7. Any person or persons who shall in any way use the name or seal of any such person, association, or union or officer thereof in, and about the sale of goods or otherwise not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars.

SEC. 8. Whereas an emergency exists, therefore, this Act shall be in force from and after its passage and approval.

Approved on the 18th day of February, 1899.

H. B. NO. 171.

AN ACT

TO VACATE A PART OF FIRST STREET IN BOISE CITY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. All that part of First Street in Boise City, in the State of Idaho being south of the south line of Main street, as designated and shown

on the plat of Boise City, be and the same is hereby vacated; saving and excepting a strip of ground ten (10) feet wide, used for an alley way, along the east boundary of block twenty-nine (29) of the original townsite of Boise, as recorded in the office of auditor and recorder of Ada County, Idaho.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

H. B. NO. 173.

AN ACT

TO PROVIDE FOR A STATE BOARD OF ARBITRATION FOR THE SETTLEMENT OF DIFFERENCES BETWEEN EMPLOYEES AND THEIR EMPLOYERS AND TO PROVIDE FOR LOCAL BOARDS OF ARBITRATION SUBORDINATE THERETO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Governor, with the advice and consent of the Senate, shall, on or before the fourth day of March, eighteen hundred and ninety-seven, appoint three competent persons to serve as a State Board of Arbitration and Conciliation in the manner hereinafter provided. One of them shall be an employer or selected from some association representing employers of labor; one of them shall be selected from some labor organization and not an employer of labor: the third shall be appointed upon the recommendation of the other two; *Provided, however,* That if the two appointed do not agree on the third man at the expiration of thirty days, he shall then be appointed by the Governor. On or before the fourth day of March, eighteen hundred and ninety-seven, the Governor, with the advice and consent of the Senate, shall appoint three members of said Board in the manner above provided; one to serve for six years; one for four years; and one for two years; or until their respective successors are appointed; and on or before the fourth day of March of each year during which the Legislature of this State is in its regular biennial session thereafter, the Governor shall in the same manner appoint one member of said Board to succeed the member whose term then expires and to serve for the term of six years or until his successor is appointed. If a vacancy occurs at any time, the Governor shall in the same manner appoint some one to serve out the unexpired term; and he may in like manner remove any member of said Board. Each member of said Board shall, before entering upon the duties of his office, be sworn to a faithful discharge thereof. They shall at once organize by the choice of one of their members as chairman. Said Board shall choose one of its members as secretary and may also appoint and remove a clerk of the Board, who shall receive pay only for time during which his services are actually required and that at a rate of not more than four dollars per day during such time as he may be employed.

SEC. 2. The Board shall, as soon as possible after its organization, establish such rules of procedure as shall be approved by the Governor and Senate.

SEC. 3. Whenever any controversy or difference, not involving questions which may be the subject of a suit at law or bill in equity, exists between an employer, whether an individual, co-partnership or corporation, and his employees if at the time he employs not less than twenty-five persons in the same general line of business in any city or town or village or

county in this State, the Board shall upon application as hereinafter provided, and as soon as practicable thereafter, visit the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either or both to adjust said dispute, and make a written decision thereof. This decision shall at once be made public, shall be recorded upon proper books of record to be kept by the secretary of said Board, and a short statement thereof published in the annual report hereinafter provided for, and the said Board shall cause a copy thereof to be filed with the county recorder of the county where such business is carried on.

SEC. 4. Said application shall be signed by said employer or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent or by both parties and shall contain a concise statement of the grievance complained of, and a promise to continue in the business or at work without any lockout or strike until the decision of said Board if it shall be made in three weeks of the date of filing said application, when an application is signed by an agent claiming to represent a majority of such employees, the Board shall satisfy itself that such agent is duly authorized in writing to represent such employees, but the names of the employees giving such authority shall be kept secret by said Board. As soon as may be after the receipt of said application, the secretary of said Board shall cause public notice to be given of the time and place for the hearing thereof; but public notice need not be given when both parties to the controversy join in the application and present therewith a written request that no public notice be given. When such request be made, notice shall be given to the parties interested in such manner as the Board may order and the Board may, at any stage of the proceedings, cause public notice to be given, notwithstanding such request. Should the petitioner or petitioners fail to perform the promise made in said application, the Board shall proceed no further thereupon without the written consent of the adverse party. The Board shall have the power to summons as witness any operative in the departments of business affected, and any person, who keeps the records of wages earned in those departments and to examine them under oath and to require the production of books containing the record of wages paid. Summons may be signed and oaths administered by any member of the Board.

SEC. 5. Upon the receipt of such application and after such notice, the Board shall proceed as before provided and render a written decision which shall be open to public inspection, shall be recorded upon the records of the Board and published at the discretion of the same, in an annual report to be made to the Governor of the State on or before the first day of February of each year.

SEC. 6. Said decision shall be binding upon the parties who join in said application for six months, or until either party has given the other notice in writing of his intention not to be bound by the same at the expiration of sixty days therefrom. Said notice may be given to said employees by posting the same in three conspicuous places in the shop or factory, mill or at the mine where they work or are employed.

SEC. 7. The parties to any controversy or difference as described in section 3 of this Act may submit the matters in dispute, in writing to a

local board of arbitration and conciliation, such board may either be mutually agreed upon, or the employer may designate one of the arbitrators, the employees or their duly authorized agent, another, and the two arbitrators so designated may choose a third who shall be chairman of the board.

Such board shall in respect to the matters referred to it, have and exercise all the powers which the State Board might have and exercise, and, its decision shall have whatever binding effect may be agreed by the parties to the controversy in the written submission.

The jurisdiction of such board shall be exclusive in respect to the matters submitted to it, but it may ask and receive the advice and assistance of the State Board. The decision of such board shall be rendered within ten days of the close of any hearing held by it; such decision shall at once be filed with the recorder of the county in which the controversy or difference arose, and a copy thereof shall be forwarded to the State Board. Each of such arbitrators shall be entitled to receive from the treasury of the county in which the controversy or difference that is the subject of the arbitration exists, if such payment is approved in writing by the board of commissioners of such county, the sum of three dollars for each day of actual service, not exceeding ten days for any one arbitration, whenever it is made to appear to the mayor of a city or the board of commissioners of a county that a strike or lockout, such as described in section 8 of this Act is seriously threatened or actually occurs, the mayor of such city or the board of commissioners of such county shall at once notify the State Board of the facts.

SEC. 8. Whenever it shall come to the knowledge of the State Board, either by notice from the mayor of a city or the board of commissioners of a county, as provided in the preceding section or otherwise, that a strike or lockout is seriously threatened or has actually occurred in any county or town of the State involving an employer and his present or past employees, if at the time he is employing or up to the occurrence of the strike or lockout was employing not less than twenty-five persons in the same general line of business in any county or town in the State, it shall be the duty of the State Board to put itself in communication as soon as may be with such employer, and employees, and endeavor by mediation to affect an amicable settlement between them, or to endeavor to persuade them; *Provided*, That a strike or lockout has not actually occurred or is not then continuing, to submit the matters in dispute to a local board of arbitration and conciliation, as above provided, or to the State Board; and said State Board may, if it deems it advisable, investigate the cause or causes, of such controversy and ascertain which party thereto is mainly responsible or blameworthy for the existence or continuance of the same, and may make and publish a report finding such cause or causes and assigning such responsibility or blame. The board shall have the same powers for the foregoing purposes as are given it by section 3 of this Act.

SEC. 9. Witnesses summoned by the State Board shall be allowed the sum of fifty cents for each attendance, and the sum of twenty-five cents, for each hour of attendance in excess of two hours and shall be allowed five cents a mile for travel each way from their respective places of employment or business to the place where the Board is in session. Each witness shall certify in writing the amount of his travel and attendance, and the amount due him shall be paid forthwith by the Board, and for such purpose the Board shall be entitled to draw from the treasury of the State for the payment thereof any of the unappropriated moneys of the State.

SEC. 10. The members of said Board shall be paid six dollars per day for each day that they are actually engaged in the performance of their duties, to be paid out of the treasury of the State, and they shall be allowed their necessary traveling and other expenses, which shall be paid out of the treasury of the State.

SEC. 11. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved on the 18th day of February, 1899.

HOUSE JOINT MEMORIAL NO. 1. BY STANTON, HANLON, PATTERSON, AND MRS. WRIGHT.

JOINT MEMORIAL

OF THE IDAHO LEGISLATURE TO CONGRESS FOR THE IMPROVEMENT OF THE COLUMBIA AND SNAKE RIVERS, AND THEIR TRIBUTARIES, FROM THE SAID STATE OF IDAHO TO THE PACIFIC OCEAN.

To the Honorable Senators and Representatives, in Congress of the United States:

WHEREAS, The Columbia and Snake rivers and their numerous and important tributaries, have within the State of Idaho a drainage basin of nearly 100,000 square miles, being a greater area than is embraced in all the New England States combined; the resources of this magnificent inland empire being greatly diversified, the climate being equable, the soil being prolific, bidding fair to be thickly populated, and the seat of many thriving cities in the near future; and,

WHEREAS, The products of this region of the State of Idaho, as well as the adjoining region of the State of Washington are yearly increasing in bulk and value and new markets and cheap rates of transportation are demanded by water; and,

WHEREAS, Large sums of money have heretofore been wisely expended by the Federal Government, to remove obstructions to navigation of the Columbia river, so that transportation by means of said river is now complete from the sea to a point near the Dalles, Oregon, affording a healthy competition for all trade entering along said river at these points; and,

WHEREAS, There still remains unnavigable a great extent of said Columbia and Snake rivers and their tributaries of the most vital interests to the welfare of the people of Idaho; and,

WHEREAS, The practicability of rendering navigable said streams and their tributaries within the State of Idaho having been reported upon favorably by government engineers, and such improvements being necessary to the welfare of the State, be it

Resolved, That we respectfully memorialize the Congress of the United States, to make liberal appropriations for the improvements needed to establish complete and safe navigation from and to the State of Idaho and the Pacific Ocean, believing thereby the government would confer a lasting and decided benefit upon the people of the Northwest.

Passed the House on the 31st day of January, 1899.

Passed the Senate on the 6th day of February, 1899.

HOUSE JOINT MEMORIAL NO. 2. BY JONES.

A JOINT MEMORIAL.

CONCERNING THE ELECTION OF UNITED STATES SENATORS.

To the Senate and House of Representatives of the United States:

We, your memorialists, the Legislature of the State of Idaho, respectfully represent that the people of this State are very strongly in favor of

the election of United States Senators by a direct vote of the people, and we therefore petition your honorable bodies to submit to the States an amendment to the Constitution of the United States providing for their election in such manner.

Passed the House on the 30th day of January, 1899.

Passed the Senate on the 2nd day of February, 1899.

HOUSE JOINT MEMORIAL NO. 6. BY REYNOLDS.

A JOINT MEMORIAL

TO CONGRESS IN REGARD TO A NATIONAL SOLDIERS' HOME AT FORT SHERMAN, IDAHO, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF IDAHO.

To the Senate and House of Representatives of the United States of America in Congress Assembled:

WHEREAS, By act of Congress and the orders of the war department, the troops will at an early date be removed from Fort Sherman to the newly established military post at Spokane, Washington, and,

WHEREAS, The present site of Fort Sherman with all of its buildings and improvements will be worthless to the United States and cannot be sold for any great amount of money; and,

WHEREAS, It is located at the north end of Cœur d'Alene Lake, a most beautiful body of water upon which are many steamers, with Cœur d'Alene City near by with good railroad facilities, and,

WHEREAS, The Idaho State Soldiers' Home is already crowded to its fullest capacity, as is the case with all the various State homes in the northwest; and,

WHEREAS, There is not a national soldiers' home in the extreme north-western States;

Therefore, We earnestly ask that you give this matter due consideration and establish a national home upon the site of Fort Sherman, in order that those men who defended the country's flag in time of peril may have a pleasant, healthy place to spend their last remaining days on earth; and that a copy of this memorial be sent to each of our senators and our representatives in congress, and they are urged to give their best influence toward the accomplishment of the matter herein set forth.

Passed the House on the 14th day of February, 1899.

Passed the Senate on the 17th day of February, 1899.

HOUSE JOINT MEMORIAL NO. 7. BY MCBEE.

PRIEST RIVER FOREST RESERVE.

MEMORALIZING THE PRESIDENT OF THE UNITED STATES TO THROW OPEN TO SETTLEMENT A PORTION OF THE PRIEST RIVER FOREST RESERVE IN KOOTENAI COUNTY, IDAHO.

To Honorable William McKinley, President of the United States of America:

WHEREAS under and by virtue of the Act of Congress, approved March 3rd, 1891, entitled "An Act to repeal timber culture laws and for other purposes" the President of the United States did by proclamation, on the 22nd day of February, 1897, set apart and reserve from settlement a tract of land in Kootenai County, Idaho, including the following boundaries:

Beginning at the southeast corner of township 57-north-range 4 west B. M. Thence north on the township line between range 3 and 4 to the northeast corner of township 59-range-4-west B. M. Thence west on the north line of said township to the northwest corner thereof, thence south on the west line of said township to the center of the east line of township

59-range 5-west B. M. Thence on the center line of said township to the State line between the States of Idaho and Washington, thence south on the said State line to a point where the north line of township 56-6-west, B. M. intersects said State line, thence east on said north line of townships 56-6-56-5-and 56-4, to the place of beginning. Comprising five full townships, one-half township, and three small fractional townships, on the west line thereof making a total of about one hundred and twenty thousand acres of land.

AND WHEREAS the land within this vast reservation is well adapted for successful cultivation, being well watered and drained by large streams, the soil being fertile and easily reduced to a tillable condition, and containing great areas of rich meadow lands, and the conditions generally being attractive to the husbandman,

AND WHEREAS about 8000 acres were located and entered in good faith under the homestead laws of the United States prior to the aforesaid proclamation,

AND WHEREAS if the boundaries of the said reservation remain unmodified and the lands are withheld from public settlement, it will result in great injury to the said settlers, and great and irreparable loss to the State of Idaho, and the County of Kootenai.

WHEREFORE your memorialists, the Legislature of the State of Idaho, respectfully request that that part of said Forest Reserve in the County of Kootenai, State of Idaho, embraced in the above mentioned description be taken from said Forest Reserve and thrown open to settlement under the homestead laws.

Passed the House on the 6th day of February, 1899.

Passed the Senate on the 7th day of February, 1899.

HOUSE JOINT MEMORIAL NO. 8. BY ELLSWORTH AND AVERITT.

A MEMORIAL

PETITIONING CONGRESS TO AMEND LAND LAWS OF THE UNITED STATES.

To the Senate and House of Representatives of the United States of America:

We, your memorialists the Senate and House of Representatives of Idaho in regular session assembled and convened do most respectfully memorialize the Congress of the United States, and to your honorable bodies represent:

That inasmuch as recent investigation and actual experience upon extensive scale have demonstrated that large tracts of land upon which no water can be had on account of its elevation can be utilized for successful farming and that what is commonly known as "dry farming" has proven a great success in many of the arid districts of the west, and inasmuch as the extent of such lands is unlimited, and inasmuch as same are so great in elevation that water can not be run upon same, and, hence, proof under the desert laws cannot be made thereof; and inasmuch as the said lands are so great in altitude that water for domestic purposes can not be had making it impossible to live upon same, and hence impossible to comply with the homestead laws of the United States; that it is therefore of the greatest interest and importance to the government and the people that there be some change or revision in the law that will enable your citizens to locate and make proof on said lands either under the desert or homestead laws of the United States, we your memorialists, therefore pray you

that some suitable change in the law be at once made, and your memorialists will ever pray.

Passed the House on the 20th day of February, 1899.

Passed the Senate on the 25th day of February, 1899:

HOUSE CONCURRENT RESOLUTION NO. 1. BY A. C. HESS.

A RESOLUTION

RELATING TO PRINTING AND DISTRIBUTION OF THE GOVERNOR'S MESSAGE.

Be it Resolved by the House of Representatives of the State of Idaho, the Senate Concurring Therein:

That there be printed by order of such authority as may have charge of the public printing of the State of Idaho, two thousand (2000) copies of the Governor's message for general distribution, and that each member of the House and Senate be furnished with ten (10) copies of the same.

Passed the House on the 6th day of January, 1899.

Passed the Senate on the 7th day of January, 1899.

HOUSE CONCURRENT RESOLUTION NO. 7. BY ERICSON.

BINGHAM COUNTY—SETTLEMENT WITH, AUTHORIZING SPECIAL COMMITTEE TO SETTLE CLAIM DUE THE STATE OF IDAHO.

WHEREAS, There is now due the State of Idaho from Bingham County the sum of \$16,642.72,

WHEREAS, Action will be taken against said county for the collection of same, and

WHEREAS, The tax-payers of Bingham County have paid this amount into the county treasury, and the same is detained through the failure of C. Bunting & Co., bankers, and,

WHEREAS, Said county has lost nearly its entire revenue for the year 1897 through said failure, now therefore

Be it Resolved by the House of Representatives of the State of Idaho, the Senate Concurring:

That a special committee of three, consisting of the Governor, the Attorney General, and the State Auditor of this State, be and the same are hereby appointed to make and effect a settlement with the said Bingham County, on such basis as will best conserve, in the judgment of said committee, the interests of the State of Idaho and justice to Bingham County. *Provided*, That if no such settlement is effected, nothing herein shall be construed, so as to release said Bingham County from its obligation in the premises.

Passed the House on the 3rd day of March, 1899.

Passed the Senate on the 4th day of March, 1899.

HOUSE JOINT RESOLUTION NO. 1. BY CHAS. S. KINGSLEY.

A JOINT RESOLUTION

RELATING TO THE TRANSMISSION OF RESOLUTIONS AND MEMORIALS.

Be it resolved by the Legislature of the State of Idaho:

I. That it shall be the duty of the President of the Senate and the Speaker of the House to see to the transmission of all memorials and resolutions passed by the fifth session of the Legislature, and copies of which should be sent to the President of the United States, to Congress, or to our Representatives in Washington.

2. It shall be the duty of the Secretary of State to prepare and transmit all necessary copies of such memorials or resolutions, under official seal, upon request of the presiding officer of the house in which such memorial or resolution originated.

Passed the House on the 30th day of January, 1899.

Passed the Senate on the 8th day of February, 1899.

HOUSE JOINT RESOLUTION NO. 3. BY MCBEE, HANLON, WRIGHT AND JOHNESSE.

A JOINT RESOLUTION

IN FAVOR OF THE PASSAGE OF THE "FREE HOMESTEAD ACT."

WHEREAS, Legislation is now, and for some years has been, pending before Congress providing for what is commonly known as free homesteads to settlers on the public domain;

AND WHEREAS, It has been the policy of the national government ever since the passage of the original free homestead bill in 1862 to provide for the disposition of our public domain to homestead settlers without charge other than the entry and land office fees;

AND WHEREAS, The failure of Congress to speedily pass such legislation will result in the loss of homes to a great number of struggling and worthy settlers on the ceded portions of the Nez Perce and Cœur d'Alene Indian reservations in the State of Idaho, who have in good faith established homes thereon, by reason of their inability to make the required payments; and will cause them to lose, in addition to their labor and means expended, their future right of homestead;

AND WHEREAS, Our government has heretofore provided, through the beneficent land laws of the United States, free homes to its citizens, and no sufficient reason appears for a departure from its time honored custom herein, in the case of the settlers of Idaho, upon said Indian reservations; therefore,

Be it resolved by the House of Representatives of the State of Idaho, the Senate concurring therein:

1st. That our Senators and Representatives in Congress be and they are hereby requested to vote for the passage of free homestead legislation, when the opportunity shall offer, and also to use every effort to secure the earliest possible consideration and passage of such legislation in the Congress of the United States.

2nd. The Secretary of State is hereby directed to forward copies of this resolution to each of our Representatives in Congress.

Passed the House on the 24th day of January, 1899.

Passed the Senate on the 25th day of January, 1899.

HOUSE JOINT RESOLUTION NO. 9. BY MOODY.

A JOINT RESOLUTION

FAVORING THE IMMEDIATE CONSTRUCTION OF THE NICARAGUA CANAL.

Be it resolved by the Legislature of the State of Idaho:

WHEREAS, the construction of the Nicaragua Canal would be of immense value to the people of the United States, as it would afford greater protection to both the Atlantic and Pacific coasts in time of war, open new lines of trade and commerce in time of peace, tend to cheapen transportation to foreign and Atlantic seaboard markets, build up new enterprises, and largely tend to maintain old ones, greatly increase our population, and thus enhance our wealth and multiply our re-

sources, and establish a shorter line of oceanic communication between the United States and its interests in the Orient, and

WHEREAS, There is now pending in the Congress of the United States a measure providing for the construction of the Nicaragua Canal by, or under the auspices of the United States government.

Resolved: By the House of Representatives of the State of Idaho, the Senate thereof concurring, that our Senators in Congress be instructed, and our members of the House of Representatives of the United States be requested to earnestly support the passage of this measure, and be it further

Resolved: That we favor the absolute ownership and control of the said Nicaragua Canal by the United States government, if within the power of said government to own and control the same.

Passed the House on the 6th day of February, 1899.

Passed the Senate on the 13th day of February, 1899.

HOUSE JOINT RESOLUTION NO. 13. BY MOODY.

A RESOLUTION

PROVIDING FOR THE DISTRIBUTION OF THE SENATE AND HOUSE JOURNALS AND SESSION LAWS OF 1899 TO THE MEMBERS OF THE PRESENT SESSION OF THE LEGISLATURE.

Be it resolved by the Legislature of the State of Idaho:

That the Secretary of State is hereby authorized and instructed so soon as the journals of the House and Senate of the present session of the Legislature are printed, to cause one copy of each to be mailed prepaid, to each member of the present Legislature, and, Be it further resolved: That the Secretary of State is hereby authorized and instructed so soon as the session laws of the present Legislature are published to cause one copy of the same to be mailed prepaid, to each member of the present Legislature.

Passed the House on the 1st day of March, 1899.

Passed the Senate on the 2nd day of March, 1899.

HOUSE JOINT RESOLUTION NO. 14 BY LYNES.

A RESOLUTION

TO PROVIDE THE MEMBERS OF THE HOUSE AND SENATE WITH THE COPIES OF THE REVISED STATUTES AND SESSION LAWS NOW IN THEIR POSSESSION.

Be it resolved by the Legislature of the State of Idaho:

SECTION 1. That the Secretary of State be and he is hereby authorized to furnish the members of the House and Senate of the fifth session of the Legislature with the copies of the Revised Statutes and the Session Laws that were issued to them at the beginning of the present session of the Legislature.

SEC. 2. The Secretary of State is hereby required to take from each member a receipt for same.

Passed the House on the 4th day of March, 1899.

Passed the Senate on the 4th day of March, 1899.

SENATE JOINT MEMORIAL NO. 3. BY WATTS.

ASKING CONGRESS FOR THE PASSAGE OF A LAW PROVIDING FOR THE FREE AND UNLIMITED COINAGE OF SILVER, AND FIXING THE VALUE THEREOF.

To the Honorable, the Senate and House of Representatives in Congress Assembled, and to His Excellency the President of the United States, at Washington, D. C.

Your memorialists, the Legislature of the State of Idaho, would most

respectfully but urgently ask for the passage by the present Congress of a law, providing for the free and unlimited coinage of silver as it existed prior to the demonetization act of 1873, and that the relative standard value thereof be fixed on the basis of 412½ grains to the dollar, nine hundred (900) fine.

Passed the Senate on the 1st day of February, 1899.

Passed the House on the 8th day of February, 1899.

SENATE JOINT MEMORIAL NO. 6. BY GOODING.

JOINT MEMORIAL

OF THE IDAHO LEGISLATURE MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO AID AND ENCOURAGE AN AMERICAN LINE OF MERCHANT MARINE.

SECTION 1. Be it resolved that the Idaho Legislature memorialize the Congress of the United States to aid by appropriate and liberal laws the efforts of the American line to maintain a place in the merchant marine of the world, and by legislative action to extend still further encouragement to our merchants in their efforts to recover our lost commercial supremacy in the carrying trade of the oceans, putting an end to our present dependence upon ships of foreign nations for the carriage of the products of our own country.

SEC. 2. That both national pride and national interests demand the hundreds of millions of dollars yearly paid by our people of the United States to foreign ships for ocean freight shall be paid to our own vessels built and navigated by our own citizens and flying our own flag.

SEC. 3. That the Secretary of State be and he hereby is required to furnish to each of our members of the Senate and Congress at Washington a certified copy of this memorial.

Passed the Senate on the 8th day of February, 1899.

Passed the House on the 15th day of February, 1899.

SENATE JOINT MEMORIAL NO. 7. BY WATTS.

MEMORIALIZING CONGRESS TO PASS AND ENACT AS A LAW THE BILL INTRODUCED INTO THE SENATE OF THE UNITED STATES BY UNITED STATES SENATOR WOLCOTT, COLORADO, PROVIDING FOR THE CREATION OF ANOTHER JUDICIAL CIRCUIT, TO BE KNOWN AS THE TENTH CIRCUIT, SUCH NEW CIRCUIT ESTABLISHED TO HAVE JURISDICTION IN COLORADO, UTAH, WYOMING, IDAHO AND MONTANA.

To the Honorable Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the Governor and the Legislature of the State of Idaho, respectfully represent:

That some time ago United States Senator Wolcott, Colorado, introduced in the Senate of the United States a bill for an act establishing another judicial circuit of the United States to be known as the tenth circuit and to have jurisdiction in and over the States of Colorado, Utah, Wyoming, Idaho and Montana.

That the bill is of great importance to the State of Idaho.

That the people of Idaho who have business in the circuit court of the United States in order to be heard must travel to San Francisco, a distance of about 1300 miles and then be subject to indefinite delays because of the crowded state of business in the ninth circuit.

That the distance to be traveled by counsel at present to appear before the Circuit Court of Appeals is so great and the expense is so enormous

that litigants of limited means in many cases would better suffer injustice and defeat rather than pursue their litigation in that court.

That the ninth circuit, comprising the States of California, Washington, Oregon, Idaho, Nevada, Montana and the Territory of Arizona is so large and the amount of business so great that much delay is necessarily caused in the dispatch of business and tardy justice is frequently the greatest injustice.

That Idaho is becoming a great mining and irrigation State and many foreign corporations have been and are being organized by resident and non-resident citizens for the transaction of business in this State and many foreign corporations are doing business in the State of Idaho.

That the large amount of legal business arising within this State is between citizens of different States and such business appears to be constantly increasing.

That the business which would fall within the jurisdiction of the proposed circuit, in the main, is peculiar to this inter-mountain region and is wholly different from that arising on the Pacific Coast, and it is of paramount importance that the laws should be administered by judges who are not only learned in the law in general but who are also familiar with the conditions of this region and by reason of experience, specially fitted to make the new application of the laws made necessary because of the difference. This is specially so as to mining and irrigation, which are the principal industries of the people within this region.

That the circuit courts exert a wholesome influence over the communities and ought to be nearer the homes of the people.

That owing to the large and constantly increasing business arising within the State of Idaho every alternate term of the Circuit Court of Appeals should be held in Salt Lake City, the nearest and most convenient point for citizens of Idaho.

That on account of the large number of questions of the greatest importance respecting mining and irrigation which arise within the limits of the proposed circuit, not less than three judges should constitute the Circuit Court of Appeals.

Your memorialists therefore respectfully memorialize your honorable bodies to pass and enact said bill introduced by Senator Wolcott, so as to provide for the creation of said proposed tenth circuit, with jurisdiction as above indicated.

And your memorialists will ever pray.

Passed the Senate on the 16th day of February, 1899.

Passed the House on the 23rd day of February, 1899.

SENATE JOINT RESOLUTION NO. 8. BY McDONALD.

A JOINT RESOLUTION.

Resolved by the Legislature of the State of Idaho:

That the Governor is hereby authorized and empowered to appoint a Commission to the Paris Exposition in 1900, to be held at Paris, France, to consist of five persons, to represent the State at said Exposition.

That none of the persons appointed on said Commission, nor the said Commission itself shall receive any sum of money whatever from the State by way of compensation for services rendered by said Commission or any member thereof.

Passed the Senate on the 6th day of February, 1899.

Passed the House on the 15th day of February, 1899.

SENATE JOINT RESOLUTION NO. 9. BY WATTS.

AUTHORIZING AND DIRECTING THE SECRETARY OF THE CAPITOL BUILDING BOARD TO PAY OVER CERTAIN MONEYS TO THE STATE TREASURER, AND AUTHORIZING AND DIRECTING THE STATE TREASURER TO PLACE SAME IN THE GENERAL FUND OF THE STATE.

WHEREAS, The fourth session of the Legislature of the State of Idaho did appropriate the sum of twelve hundred (\$1,200.00) dollars for the purpose of insuring the capitol building, (page 48 Session Laws of 1897) and,

WHEREAS, The Capitol Building Board, as by law required, did on the 15th day of January, 1898, insure the said capitol building and furniture for the sum of fifty-two thousand, two hundred and fifty (\$52,250.00) dollars, and,

WHEREAS, Subsequent to said time a readjustment of the insurance rate on said capitol building was made by the various companies, writing said readjustment the rate so fixed was less than the rate originally paid, and,

WHEREAS, On account of said reduction in said rate the different companies writing said insurance did return to the Capitol Building Board as rebate the sum of ninety-nine and 42-100, (\$99.42) dollars, and,

WHEREAS, Said Board did subsequently to the date aforesaid, increase the insurance on the said capitol building and contents to the amount of twenty-five hundred (\$2,500) dollars, paying therefor the sum of fifty (\$50.00) dollars out of said rebated money, and leaving a balance in cash in said fund of forty-nine and 42-100 (\$49.42) dollars.

Now, Therefore, be it Resolved by the Legislature of the State of Idaho:

SECTION 1. That the secretary of the Capitol Building Board is hereby authorized and directed to pay over to the Treasurer of the State of Idaho the said sum of forty-nine and 42-100 (\$49.42) dollars, and the State Treasurer is hereby authorized and directed to receive said sum and place the same to the credit of the General Fund.

Passed the Senate on the 13th day of February, 1899.

Passed the House on the 16th day of February, 1899.

SENATE JOINT RESOLUTION NO. 12. BY HEGSTED.

A JOINT RESOLUTION

TO SUBMIT TO THE ELECTORS OF THE STATE OF IDAHO FOR REJECTION OR APPROVAL, AN AMENDMENT TO SECTION ELEVEN, OF ARTICLE NINE OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO INVESTING OF PUBLIC SCHOOL FUND.

Be it resolved by the Legislature of the State of Idaho:

SECTION 1. That section eleven of article nine of the Constitution of the State of Idaho be amended to read as follows:

Section 11. The permanent educational funds other than funds arising from the disposition of university lands belonging to the State, shall be loaned on first mortgage on improved farm lands within the State; State, United States, or school district bonds, or State warrants, under such regulations as the Legislature may provide. *Provided*, That no loan shall be made of any amount of money exceeding one-third of the market value of the lands at the time of the loan, exclusive of buildings.

SEC. 2. The question to be submitted to the electors of the State, at the next general election shall be in form as follows, to-wit:

“Shall section 11 of article nine of the Constitution of the State of

Idaho be amended to enlarge the powers of the State Board of Land Commissioners, in loaning school money.”

Passed the Senate on the first day of March, 1899.

Passed the House on the 3rd day of March, 1899.

S. B. NO. 1.

AN ACT

TO AMEND SECTION 3 OF “AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON,” APPROVED FEBRUARY 9, 1881, BY ADDING TO SAID SECTION 3, A PROVISION ENABLING THE CITY OF LEWISTON, IDAHO, TO LEVY A TAX FOR PURPOSE OF A READING ROOM AND LIBRARY IN ADDITION, IF NECESSARY, TO THE AMOUNT OF ONE AND ONE-HALF PER CENT. PER ANNUM ANNUALLY ON THE PROPERTY ASSESSED.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section three of “An act to amend the charter of the city of Lewiston,” approved February 9, 1881, be and it hereby is amended so as to read as follows:

Section 3. Said city has the power to assess, levy and collect taxes for general municipal purposes, not to exceed one-half per centum per annum, upon all property, both real and personal within the city limits which is by law taxable for State and county purposes, and to levy and collect special taxes as hereinafter provided: But all taxes for general and special municipal purposes, exclusive of assessments, as hereinafter provided, shall not exceed one and one-half per centum annually on the property assessed: *Provided, however,* That said city shall also have power to assess, levy and collect annually in addition to said one and one-half per centum annually, if necessary, a tax in such an amount as the council shall deem necessary, not exceeding one-half of one per cent., for the purpose of maintaining or assisting in maintaining a reading room and library in said city.

Filed, Feb. 28, 1899.

S. B. NO. 5.

AN ACT

TO AUTHORIZE THE BOARDS OF COUNTY COMMISSIONERS OF THE SEVERAL COUNTIES OF IDAHO TO DISPOSE OF ANY INTEREST THE COUNTY MAY HAVE IN ANY REAL ESTATE THAT HAS BEEN SOLD FOR DELINQUENT TAXES OF WHICH THE COUNTY HAS BECOME THE PURCHASER.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any tract, lot, piece or parcel of land sold by the assessor heretofore or that may be hereafter sold by such assessor for delinquent taxes, and the county becomes the purchaser, the board of county commissioners of such county shall upon the application of any person made in writing and filed with the clerk of such board of commissioners describing the same fully and minutely, assign all interest such county may have in such tract, lot, piece or parcel of land to such applicant by said applicant paying to the county treasurer in cash a sum equal to all of the county, state, school or other tax levied against such tract, lot, piece or parcel of land, together with all penalties, interest and cost of sale and all subsequent taxes against such land.

SEC. 2. Such assignment shall be signed by the chairman of such board and attested by the clerk of such board, and when the treasurer receives the amount represented in such assignment, such treasurer shall countersign such assignment, which shall be made in duplicate, and the holder shall file the original with the county recorder for record and shall

file the duplicate with the county assessor, who shall thereafter assess such land to the said assignee.

SEC. 3. Such assignee shall be entitled to a tax deed at such time as the county would have been entitled to a tax deed had such assignment not have been made.

SEC. 4. The original owner of such land, or any person who at the date of such tax sale holds a valid mortgage, lien, incumbrance or other interest on, in or to the same, may redeem such land from such assignee of the county or his assigns any time before the expiration of five years from the date of said tax sale by paying to such assignee or his assigns the amount paid by such assignee to the county together with all subsequent taxes levied against such land and paid by such assignee with interest on such sums at 7 per centum from the time they were so paid, or by depositing the same with the county assessor for the benefit of such assignee.

SEC. 5. Whenever such redemption is made as provided in section four of this Act, the same proceedings shall be had as if no assignment had been made, and the auditor and treasurer shall issue to such redemptioner a certificate of redemption which when recorded by the recorder of the county shall have the same effect as if no such tax sale had been made.

Approved Feb. 6th, 1899.

SENATE SUBSTITUTE FOR S. B. NO. 7.

AN ACT

FOR THE IMPROVEMENT OF THE NAVIGATION OF RIVERS, AND THEIR TRIBUTARIES, IN THE STATE OF IDAHO, BY DEEPENING, STRAIGHTENING AND CLEARING THE CHANNELS THEREOF, BY THE ERECTION OF DAMS, BOOMS AND CANALS, AND OTHERWISE, AND FOR COLLECTING TOLLS AND CHARGES THEREON, FOR THE FLOATING, DRIVING AND HANDLING OF SAW LOGS, AND OTHER TIMBER PRODUCTS, AND THE NAVIGATION OF BARGES AND RAFTS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any person, company, or corporation may, upon such terms and conditions and subject to such liabilities as are prescribed in this Act, improve the navigation of any river or tributaries thereof in this State, by deepening, clearing and straightening the channels thereof, and by the construction of dams and booms therein, and by canals to connect therewith, or otherwise if necessary, but shall in no case or in any manner materially obstruct or impede navigation upon any stream by the erection therein of any dam or other obstruction below the head of steamboat navigation upon said stream, and may take and receive such amounts of toll for the passage of barges, rafts, timber, logs, lumber, piling, railroad ties, telegraph or telephone poles, through such river and its tributaries, when the navigation shall be thus improved as the Board of State Land Commissioners may prescribe as herein provided.

SEC. 2. Such person, company, or corporation shall make and file with the secretary of the Board of State Land Commissioners, a certificate which shall specify: First, the name of the person, company or corporation; Second, the stream and section of the stream, the navigation of which it is proposed to improve, and the character and extent of the improvement to be made: Third, the place in this State where the principal office for the transaction of business is located; Fourth, the time when it is intended to begin work and the probable time it will take to complete the work in order to make the stream available for the uses intended by this Act: Fifth, a statement of the probable amount of capital required to perform said work under the provisions of this Act: Sixth, on the first day of December of

each year said person, company or corporation shall make an annual report to the Land Board of the character of the improvements made during the year, and the amount expended in making said improvements, the number of thousand feet of lumber, logs, or other timbers, floated on said stream, the amount of tolls received for any or all of the timber so floated, which statement shall be a sworn statement.

SEC. 3. Upon compliance with the first five provisions of the last preceding section, any person, company or corporation operating under this Act shall be authorized in writing by the State Board of Land Commissioners to improve the navigation of any stream, if the said Board shall be of the opinion after proper investigation, that the proposed improvements shall be a public benefit, and that such person, company or corporation is the proper one to make the same, and said Board shall fix the time within which said improvements shall be completed and shall require an undertaking to the State of Idaho in an amount equal to the estimated cost of the proposed improvement, conditioned that such person, company or corporation will, within the time specified complete such improvement, or in default thereof pay any person aggrieved by such failure all damages that may be sustained thereby, not exceeding the amount of such undertaking, and in case of failure to complete said improvements within the time specified, said person, company or corporation shall forfeit all rights to collect tolls of any person or persons whatsoever, who shall use for purposes of navigation the improvements made by said person, company or corporation, unless the time for completing the same shall have been previously extended by said State Board of Land Commissioners upon good cause shown. *Provided*, that any person, company or corporation making application to said Board for permit to improve any stream, as in this Act provided, shall cause to be published in some newspaper of general circulation, published in the county where said improvements are to be made, or if said improvements are to be made in more than one county, then in each of said counties, a notice that application has been made to said Board, stating in said notice the name of the stream and the portion thereof intended to be improved and the date at which the Board will hear said application, which notice shall be published for a period of twenty days.

SEC. 4. Whenever any portion of said works shall be completed to the satisfaction of said Board, and it is so far useful that in the opinion of said Board tolls should be charged for the use thereof, said Board may fix the tolls to be paid for the use of such portion until the whole of said work is completed, and whenever said improvements have been completed and accepted by said Board, the rate of toll which any person, company or corporation operating under this Act may charge for running rafts, timbers, logs, lumber or other floatables, subject to tolls, through said improved stream shall be fixed by the said Board, and may be graduated with reference to the distance run upon the portion of said stream improved by said person, company or corporation, and shall not be increased without the consent of said Board, but may be changed from time to time by said Board: *Provided*, That the maximum toll that may be fixed by said Board cannot exceed twenty-five cents per thousand feet, board measure, for any distance not exceeding fifty miles; fifty cents per thousand feet, board measure, for any distance over fifty miles; and not exceeding one hundred miles; seventy-five cents per thousand feet, board measure, for any distance over one hundred miles. *Provided*, however,

such tolls shall not exceed a reasonable and just compensation considering the value of such improvements, and shall be subject to review at all times by the district court of the county in which such improvements are situated.

SEC. 5. Any stream improved by this Act shall be open to all persons for use, upon the payment of toll prescribed as aforesaid, for the passage of barges, logs, rafts, timbers, lumber and other floatables through such improved stream or waters, and uniform rates of toll shall be charged to all persons.

SEC. 6. Whenever said tolls are prescribed as aforesaid, the person, company or corporation may collect the same by suit from persons using said improved portion of said stream; the proceedings of such action shall be in accordance with the practice of the courts in which such action is commenced.

SEC. 7. Such person, company or corporation shall have a lien upon all logs, rafts, timber, lumber or other floatables, driven, rafted or run through such stream or waters, upon which toll shall be charged for such tolls, and may enforce the same by appropriate action in any court of competent jurisdiction.

SEC. 8. Any such person, company or corporation shall at all times after commencing the collection of any tolls from persons using such improved stream or waters, keep such portion of the stream or waters clear of all unnecessary obstructions and in good condition for the passage of rafts, timber, logs, and lumber as aforesaid, it shall be the duty of the said person, company or corporation, without unnecessary delay, to make such repairs as shall restore such stream or waters to their proper condition, and in case said person, company or corporation shall fail to comply with the provisions of this section, the person, company or corporation shall for every such neglect or refusal, be liable to a forfeiture of \$100.00 to be recovered in an action of debt by any person or persons aggrieved or injured thereby; *Provided*, that in all cases such person, company or corporation shall first have been notified of such defect and the necessary time for its repair shall have elapsed after such notice and before the commencement of such suit.

SEC. 9. If any person or persons shall willfully obstruct any stream or waters improved under the provisions of this Act, or any part thereof, or shall willfully destroy or injure any buildings, piers, dams, fixtures, banks, or other constructions in use upon the same, belonging to said person, company or corporation, such person, or persons so offending, shall for every offense be deemed guilty of a misdemeanor, and shall be punished by fine not exceeding \$300.00, or by imprisonment in the county jail not more than six months, in the discretion of the courts. *Provided*, That the right to carry on mining operations, either placer or quartz, together with the right to use any stream in this State for dumping purposes by miners or mine owners, and the right to use the waters of any stream in this State for mining, agriculture or domestic purposes, and for water power and supply for milling, and to erect ditches and canals and other necessary structures for the purpose of diverting the waters of any stream for said purposes, shall never be denied or in any manner abrogated or abridged by any of the provisions of this Act.

SEC. 10. If any person or persons shall put or cause to be put into said stream or waters any logs, timber, lumber or other floatables,

and shall not make adequate provisions and put on sufficient force for breaking jams of such logs, timber, lumber or other floatables in or upon such stream or waters for running, rafting or driving the same, and thereby obstructing the floatage or navigation, it shall be lawful for such person, company or corporation to cause such jams to be broken and such logs, lumber, timber, or other floatables to be run, driven, boomed, rafted or secured, at the charge and expense of the person or persons owning such logs, timber, lumber or other floatables, and said person, company or corporation shall have a lien upon such logs, timber, lumber or other floatables, as shall be sufficient to pay and satisfy all just and reasonable charges therefor, and expense and cost thereof, and shall be entitled to take and retain possession of such logs, timber, lumber or other floatables, or so much thereof as may be necessary to satisfy the amount of such charges for breaking such jams and for driving, booming, rafting and running such logs, timber, lumber, or other floatables, and expenses and costs thereon, until the same be satisfied and paid, and such person, company or corporation shall proceed to collect such charges, costs and expenses in the manner hereinafter prescribed.

SEC. 11. Any such person, company or corporation claiming any liens, may bring an action against the owner of such property to determine and satisfy the amount of such lien; the proceedings in such action shall be in accordance with the practice of the courts in which such action is commenced, and the property so held may be levied upon and sold to satisfy any judgment which may be rendered against such owner, together with all costs of such suit, including the costs and expenses of providing for the care and safety of such property.

SEC. 12. All persons, companies or corporations complying with the provisions of this Act, who shall improve the navigation of any stream as herein provided, shall be entitled to all of the benefits of this Act for a period of fifteen years from the date of the filing of the certificate, as provided in section two of this Act.

SEC. 13. All acts and parts of acts conflicting with this Act are hereby repealed.

Approved, Feb. 28, 1899.

S. B. NO. 11.

AN ACT

TO AMEND SECTION 3952, TITLE THREE OF CHAPTER FIVE, OF THE REVISED STATUTES OF THE STATE OF IDAHO, CONCERNING THE DRAWING OF JURIES UPON THE ORDER OF THE DISTRICT COURT, OR THE JUDGE THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3952 of the Revised Statutes of the State of Idaho, be amended to read as follows;

Section 3952. The district court, or the judge thereof, if a jury will be required at any term of the district court, must make and file with the clerk, an order that one be drawn. The number to be drawn must be fixed in the order; if to form a grand jury, it must be twenty, and if a trial jury, such number as the judge may direct.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved, Feb. 7, 1899.

S. B. NO. 14.

AN ACT

MAKING IT A MISDEMEANOR FOR ANY PERSON TO WILLFULLY OR WANTONLY WASTE THE WATERS OF ANY STREAM THE WATERS OF WHICH ARE USED FOR IRRIGATION; ALSO, MAKING IT A MISDEMEANOR IN ANY WAY TO INTERFERE WITH THE OVERFLOW, GAUGE OR WATERWAY PLACED IN ANY DAM BY A WATERMASTER, OR IN ANY MANNER INCREASE, DIMINISH, CHANGE OR IN ANY WAY INTERFERE WITH THE FLOW OF WATERS REGULATED BY HIM.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any person or persons who shall willfully or wantonly waste any of the waters of any stream, the waters of which are used for irrigation, to the detriment of any claimant of such water for irrigation purposes by diverting the same for an unnecessary use or purpose, or by allowing such water to waste by running into depressions or dry channels so that the same cannot be used for irrigation, nor reach the original channel of the stream from which it has been diverted, is guilty of a misdemeanor.

SEC. 2. Any person or persons who shall obstruct any overflow, gauge or waterway placed in any dam by order of any watermaster so as to impede the flow of water over such dam as regulated by the watermaster shall be guilty of a misdemeanor.

SEC. 3. Any person who, without the consent of the watermaster of the district, diverts any water from a ditch or channel where it has been placed, or caused or left to run by the watermaster or his deputies; or who shuts or opens any ditch, gate or dam, or in any way impedes or increases the flow of water in any stream or ditch diverting water from a stream, while the same is under the charge of a watermaster, or who cuts away any embankment of a stream, whereby the water of such stream is diverted, or breaks, injures or removes any gate, flume or other device used for the equitable distribution of the water of such stream by the watermaster, shall be guilty of a misdemeanor.

SEC. 4. If any obstruction shall be willfully and maliciously placed on any overflow gauge in any stream of water which is used for irrigation and is under control of a watermaster, and such obstruction retards or impedes the free overflow of the water of such stream, thereby increasing the pressure against a headgate through which water is diverted by means of such dam, or if any headgate regulated by a watermaster shall be removed, broken, injured or interfered with so as to disturb the distribution of the water as regulated by the watermaster, or if any bank of the natural stream, the water of which is being used for irrigation and is being distributed by a watermaster shall be cut away so as to increase the flow of water from such stream thereby interfering with the distribution of the water as regulated by a watermaster; the person or persons so interrupting the flow of said water as aforesaid, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of one hundred (\$100) dollars or be imprisoned in the county jail not exceeding sixty days.

SEC. 5. Whereas in the opinion of the Legislature an emergency exists this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved Feb. 25, 1899.

SUBSTITUTE FOR S. B. NO. 15.

AN ACT

TO AMEND SECTION 48 OF AN ACT TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE SCHOOLS,
APPROVED, FEB. 6TH, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 48 of said Act be amended to read as follows:

Section 48. Every teacher in the public schools may suspend for good cause any pupil and report such suspension to the board of trustees for review. If the action of the teacher is sustained by the board, the pupil may be censured and returned to the school or expelled from school as in the judgment of the board seems proper; but if not sustained, the teacher may appeal to the county superintendent, whose decision shall be final.

Every teacher shall make reports, in addition to those mentioned elsewhere in said Act, which may be required by the State Superintendent, county superintendent, or by the school district board of trustees; shall use the text books provided for the schools of the State; enforce the course of study and the rules and regulations prescribed by the State Superintendent; hold pupils to a strict account for disorderly conduct or improper language in and about the building, on the play grounds and on the way to and from school; shall keep himself or herself above reproach and endeavor to impress upon the minds of the pupils the principles of truth, justice, morality, patriotism and refinement and to avoid idleness, falsehood, profanity, vulgarity and intemperance; give attention during every school term to the cultivation of manners, and devote not less than thirty minutes each week to the systematic teaching of kindness of pupils to one another and toward domestic animals and other living creatures.

Approved Feb. 28, 1899.

S. B. NO. 18.

AN ACT

REGULATING SURETY COMPANIES AND AUTHORIZING THE GIVING AND GUARANTEEING OF
JUDICIAL, OFFICIAL, AND OTHER BONDS BY SUCH COMPANIES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That whenever any bond, undertaking, recognizance or other obligation is by law, or the charter, ordinances, rules or regulations of any municipality, board, body, organization, court, judge or public officer, required or permitted to be made, given, tendered or filed with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by a surety company qualified as hereinafter provided; and such execution by such company of such bond, undertaking, obligation, recognizance or guaranty shall be in all respects a full and complete compliance with every requirement of every law, charter, ordinance, rule or regulation that such bond, undertaking, obligation, recognizance or guaranty shall be executed by one surety or by one or more sureties, or that such sureties shall be residents or householders, or free holders, or either or both, or possess any other qualification; and all courts, judges, heads of departments, boards, bodies, municipalities, and public officers of

every character shall accept and treat such bond, undertaking, obligation, recognizance, or guaranty, when so executed by such company, as conforming to and fully and completely complying with every such requirement of every such law, charter, ordinance, rule or regulation.

SEC. 2. That such company must be authorized under the laws of the State where incorporated, and under its charter, to become surety upon such bond, undertaking, obligation, recognizance or guaranty; must have a fully paid up and safely invested and unimpaired capital of at least \$250,000; must have good available assets exceeding its liabilities, which liabilities for the purposes of this Act shall be taken to be its capital stock its outstanding debts and a premium reserve at the rate of fifty per centum of the current annual premium on such outstanding bond, undertaking, recognizance and obligation of like character in force; must file with the Secretary of State a certified copy of incorporation, a written application to be authorized to do business under this Act, and also with such application and in April of each year thereafter, a statement verified under oath, made up to Dec. 31st, preceding, stating the amount of its paid up cash capital, particularizing each item of investment, the amount of premiums upon existing bonds, undertakings, recognizances and obligations of like character in force upon which it is surety, the amount of liability for unearned portion thereof estimated at the rate of fifty per centum of the current annual premiums on each such bond, undertaking, recognizance and obligation in force, stating also the amount of its outstanding obligations of all kinds; and if such company be organized under the laws of any other State, it must have on deposit with a State officer of one of the States of the United States, not less than \$100,000 in good securities, deposited with and held by such officer for the benefit of the holders of its obligations; must also appoint an attorney in this State upon whom process of law can be served, which appointment shall continue until revoked or another attorney substituted and must file with the Secretary of State evidence of such appointment, which shall state the residence and office of such attorney.

SEC. 3. That the Secretary of State upon due proof by any such company of its possessing the qualifications in this Act specified, shall issue to such company a certificate setting forth that such company has qualified and is authorized for the ensuing year to do business under this Act, which said certificate shall be evidence of such qualification of such company and of its authorization to become and to be accepted as sole surety on all bonds, undertakings, recognizances, and obligations, required or permitted by law or the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer, and the solvency and credit of such company for all purposes and its sufficiency as such surety.

SEC. 4. That from and after the passage of this Act the surety or the representative of any surety, upon the bond of any trustee, committee, guardian, assignee, receiver, executor, or administrator, or other fiduciary, may apply by petition to the court wherein said bond is directed to be filed or which may have jurisdiction of such trustee, committee, guardian, assignee, receiver, executor or administrator, praying to be relieved from further liability as such surety for the acts or omissions of the trustee, committee, guardian, assignee, receiver, executor or administrator, or other fiduciary, which may occur after the date of the order

relieving such surety to be granted as herein provided for and to require such trustee, committee, guardian, assignee, receiver, executor, or administrator, or other fiduciary, to show cause why he should not account and said surety be relieved from such further liability as aforesaid and said principal be required to give a new bond; and thereupon, upon filing of said petition, said court shall issue such order returnable at such time and place and to be served in such manner as said court shall direct and may restrain such trustee, committee, guardian, assignee, receiver, executor or administrator or other fiduciary from acting except in such manner as it may direct to preserve the trust estate; and upon the return of such order to show cause if the principal in the bond account in due form of law and file a new bond duly approved, then said court must make an order releasing said surety filing the petition as aforesaid, from liability upon the bond for any subsequent act or default of the principal; and in default of said principal thus accounting and filing such new bond said court shall make an order directing such trustee, committee, guardian, assignee, receiver, executor, or administrator or fiduciary to account in due form of law within thirty days, and that if the trust fund or estate shall be found or made good and paid over or properly secured such surety shall be discharged from any and all further liability as such for the subsequent acts or omissions of the trustee, committee, guardian, assignee, receiver, executor, or administrator, or fiduciary, after the date of such surety being so relieved or discharged and discharging such trustee, committee, guardian, assignee, receiver, executor or administrator, or fiduciary.

SEC. 5. That it shall be lawful for any party of whom a bond, undertaking, or other obligation is required, to agree with his surety or sureties for the deposit of any or all moneys and assets for which such surety or sureties are or may be held responsible, with a bank, savings bank, safe, deposit or trust company, authorized by law to do business as such, or other depository approved by the court, or a judge thereof, if such deposit is otherwise proper, for the safe keeping thereof, and in such manner as to prevent the withdrawal of such moneys and assets or any part thereof, without the written consent of such surety or sureties or an order of the court, or a judge thereof, made on such notice to such surety or sureties as such court or judge may direct.

SEC. 6. That any receiver, assignee, guardian, trustee, committee, executor, administrator or curator, or other fiduciary, required by law or the order of any court or judge, to give a bond or other obligation as such, may include as a part of the lawful expense of executing his trust, such reasonable sum paid a company authorized under the laws of this State so to do, for becoming his surety on such bond as may be allowed by the court in which, or a judge before whom, he is required to account, not exceeding one per centum per annum on the amount of such bond; and in all actions and proceedings a party entitled to recover disbursements therein shall be allowed and may tax and recover such sum paid such company for executing any bond, recognizance, undertaking, stipulation, or other obligation therein not exceeding, however, one per cent. on the amount of the liability upon such bond, recognizance, undertaking, stipulation, or other obligation during each year the same has been in force.

SEC. 7. That such surety companies only as have complied with the

provisions of sections two, three, four, and five of the act of Congress, approved August 13th, 1894, entitled: "An act relative to recognizances stipulations, bonds, and undertakings and to allow certain corporations to be accepted as surety thereon" shall be permitted to do business in this State and that no certificate under section three of this Act shall issue, until a compliance with the provisions of said sections of said act of Congress is shown. And said surety companies must also file with the annual statement prescribed by section two of this Act evidence that their authority to do business has not been revoked under the provisions of said act of Congress.

SEC. 8. All surety companies doing business in this State shall pay to the State Treasurer an annual license fee. Fifty dollars payable at the time of filing the first statement and annually thereafter, in April of each year, and before certificate of authority is issued. Certificates of such payments shall be made by the Treasurer to the Secretary of State and State Auditor. Licenses so collected shall be paid into the general fund.

SEC. 9. The premium or charge for procuring bonds from surety companies for State, district, county, city, village or school district treasurers shall be paid by the State, district, county, city, village or school district respectively, not to exceed, however, the sum of three and one-half dollars per annum for each thousand dollars of the bond.

In case of all other State, district, county, city, village, or school district officers one-half the premium shall be paid by such State, district, county, city, village, or school district.

SEC. 10. It shall not be necessary for any surety company authorized under this Act to do business in this State to show that it is a taxpayer or property owner within this State.

SEC. 11. Any company giving any bond, or recognizance under this Act shall be estopped in any proceeding to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute such instrument or assume such liability.

SEC. 12. If any surety company doing business under this Act shall neglect or refuse to pay any final judgment rendered against it upon any bond or undertaking made or guaranteed by it under the provisions of this Act from which no appeal, writ or error or supersedeas has been taken for ninety days after the rendition of such judgment or decree, it shall forfeit all right to do business under this Act in this State.

SEC. 13. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 14. An emergency existing therefor this Act shall be in force and take effect from and after its passage and approval.

Approved Feb. 23, 1899.

S. B. NO. 20.

AN ACT

PROVIDING FOR THE CONVEYANCE AND TRANSPORTATION OF CONVICTS FROM THE PLACE OF CONVICTION TO THE STATE PRISON, AND REGULATING THE TIME, PLACE AND MANNER OF INFLECTION OF THE DEATH PENALTY AND TO PROVIDE MEANS FOR THE EXECUTION OF SUCH PENALTY AND AMENDING SECTIONS 8009, 8019, 8021, 8022 OF THE REVISED STATUTES OF THE STATE OF IDAHO; ALSO AMENDING SECTIONS 8008 AND 8504 OF THE REVISED STATUTES OF THE STATE OF IDAHO, AS AMENDED BY AN ACT ENTITLED "AN ACT PROVIDING FOR THE CONVEYANCE AND TRANSPORTATION OF CONVICTS FROM THE PLACE OF CONVICTION TO THE STATE PRISON," APPROVED FEBRUARY 13TH, 1899.

SECTION 1. Section 8504 of the Revised Statutes of Idaho as amended

by an act of the fifth session of the Legislature of the State of Idaho, approved February 13th, 1899, is hereby amended to read as follows:

Section 8504. When any person is convicted in any court of this State, and sentenced to imprisonment in the State prison, or to suffer the death penalty, the sheriff of the county in which such conviction shall have been had, shall immediately, upon passing of sentence, notify the Warden of the State prison, that persons are in his custody waiting transportation to the State prison. Such notice shall be sent by telegram or telephone if possible, directly from the place of conviction, but if there be no telegraphic communication between the place of conviction and Boise City, then such notice shall be sent by letter to the nearest telegraph or telephone station having communication with said city and transmitted from such station by telegraph or telephone to said Warden. Immediately upon receipt of such notice, the Warden of the State prison shall forthwith dispatch one or more guards as may be necessary from said prison to the place where such convicted person is detained, to secure and convey said convicted person to the State prison. Such guards shall have authority to demand and receive the convicted person and the certified copy of judgment from the sheriff, and immediately upon the delivery of such convicted person to him, the said guard shall convey such convicted person to the State prison and deliver him into the custody of the Warden thereof: *Provided*, That the judge of the court in which any person is convicted may, by order duly made, direct the sheriff of the county in which a term of court is being held, to withhold the notice herein provided, until the last day of the then current term of said court, if such judge has reason to believe that more than one person will be convicted at said term: And, *Provided further*, That nothing in this section contained shall be so construed as to apply to persons ordered into confinement in a county jail, as provided in section 8503.

SEC. 2. Section 8008 of the Revised Statutes as amended by an act of the fifth session of the Legislature of the State of Idaho, approved February 13th, 1899, is hereby amended to read as follows:

Section 8008. If judgment is for imprisonment in the State prison, or for the infliction of the death penalty, the sheriff of the county must, upon receipt of the certified copy of judgment, hold the prisoner in his custody until demand for such prisoner is made upon him by the duly authorized guard of said prison, who may be sent to convey such prisoner to the State prison. When such demand is made upon the sheriff by said guard, the sheriff shall deliver the prisoner and said copy of the judgment to said guard, and take a receipt from said guard for the prisoner and said copy of the judgment.

SEC. 3. Section 8009 of the Revised Statutes is hereby amended to read as follows:

Section 8009. Whenever a person convicted of a crime the penalty for which is death; and such convicted person be sentenced to suffer the penalty of death, the judge passing such sentence shall designate in the warrant of conviction, a day on which the judgment is to be executed, which must not be less than thirty nor more than sixty days from the date of said judgment. Said warrant shall be directed to the Warden of the State penitentiary of this State, commanding said Warden to do execution of the sentence imposed as aforesaid, within the time designated in said warrant, and shall be delivered to the sheriff of the county wherein said conviction

is had, who shall deliver the same to the Warden of the State penitentiary or his authorized guard at the time of the delivery of the person, and copy of the judgment as herein provided for. The said Warden of the State penitentiary shall keep said convicted person in solitary confinement until the infliction of the death penalty; and no person shall be allowed access to the said convict, except his attendants, counsel, physician, spiritual adviser of his own selection, and members of his own family, and then only in accordance with the prison rules.

SEC. 4. Section 8019 of the Revised Statutes is hereby amended to read as follows:

Section 8019. If for any reason a judgment of death has not been executed, and it remains in force, the court in which the conviction was had, on the application of the county attorney, must order the defendant to be brought before it, or if he is at large a warrant for his apprehension may be issued. Upon the defendant being brought before the court, the court must inquire into the facts, and if no legal reason exists against the execution of the judgment, must make an order that the Warden execute the judgment at a specified time. The Warden must execute the judgment accordingly.

SEC. 5. Section 8021 of the Revised Statutes is hereby amended to read as follows:

Section 8021. The State Prison Board of the State, at the expense of the State of Idaho, shall provide a suitable room or place, closed from public view within the walls of the State Penitentiary, and therein erect and construct the necessary scaffolding, traps and appliances requisite for carrying into execution the death penalty; and the punishment of death must, when pronounced by sentence in this State, in each and every case, be inflicted by the Warden, in the State Penitentiary, in the room or place, and with the appliances aforesaid, by hanging said convict by the neck until he shall be dead.

SEC. 6. Section 8022 of the Revised Statutes is hereby amended to read as follows:

Section 8022. After the execution, the Warden must make a return upon the death warrant, showing the time, mode and manner in which it was executed.

SEC. 7. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 8. An emergency existing therefor, this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, Feb. 18, 1899.

S. B. NO. 23.

SUBSTITUTE FOR S. Bs. NOS. 4 AND 17.

AN ACT

TO PROVIDE FOR THE CODIFICATION OF THE LAWS OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Governor of the State of Idaho is hereby authorized and empowered to present to the State Senate, now in session, for its approval, the names of five persons, learned in the law and members of the bar of the Supreme Court of this State, one of whom to be designated by the Governor, shall be chairman; such persons, upon being approved by said Senate, shall be known as the Code Commission, and

they shall be authorized to codify the laws, civil and criminal, and the law of Civil Procedure, and to revise, simplify, arrange, and consolidate the Statutes of the State of Idaho, which shall be in force at the time such commission shall make its final report.

SEC. 2. It shall be the duty of the Commission to prepare the following Codes, the Political Code, the Civil Code, the Code of Civil Procedure and the Penal Code.

The Political Code shall treat of the sovereignty of the people of the State, of the political rights and duties, of the political divisions of the State, of the government of the counties, cities and towns and of such other general laws as shall seem proper to the Commission.

The Civil Code shall consist of the body of the common law, with such statutory changes therein as have been enacted by the Legislature of the Territory, and of the State of Idaho, with such changes and amendments as it shall seem to the Commission advisable.

The Code of Civil Procedure shall treat of the procedure and practice in civil actions and proceedings in all the courts of the State, or any subdivision thereof.

The Penal Code shall treat of crimes and misdemeanors and the punishment thereof, of criminal procedure and penitentiaries, prisons and jails.

The Commission shall also make and prepare a report designating what statutes or parts of statutes are repealed by the provisions of any other act reported by them, and what, if any, laws of a general nature ought to be enacted in addition to the Codes reported.

SEC. 3. The Political Code must contain in addition to other matters required, the Magna Charta, the Declaration of Independence, the Constitution of the United States, with the amendments, the Organic Act of the Territory of Idaho, the Act of Congress admitting Idaho as a State, the Constitution of the State of Idaho, the laws of the United States providing for the naturalization of citizens, being sections 2165 to 2174, inclusive, of the Revised Statutes of the United States, the statutes of the United States relative to the authentication of records, being sections 905, 906 and 907 of the Revised Statutes of the United States and a copy of this Act.

SEC. 4. After each section or subdivision of the matter to be comprised in the several volumes, there shall be as complete a reference to all decisions, interpreting, construing, or applying the law as may be, whether of the courts of Idaho, or of the courts whereby similar laws have been interpreted.

SEC. 5. The Code Commissioners must make for each of the four Codes a complete working index of the contents thereof, alphabetically arranged, and of sufficient particularity to refer to each section contained in said volume and to the subject thereof, which index must be printed and bound in each appropriate volume, and must make a general index of like particularity which must be printed and bound in each volume, as the same shall be finally published.

SEC. 6. Said Commission shall receive a compensation for their services as follows: The chairman of said Commission, the sum of three thousand five hundred (\$3500.00) dollars, and the other Commissioners the sum of two thousand (\$2000.00) dollars each. The chairman of said Commission shall have his office at Boise City, and shall devote his entire time

to the work of said Commission, and shall supervise and direct the same, and shall have power to require the attendance of at least one or more of said Commissioners at his office in Boise City at any or all times when he shall deem such attendance necessary, and may call a meeting of said Commission at any time when he may deem the same necessary. The said Commissioners are empowered and authorized to employ such assistance as may be necessary, at an expense of not to exceed one thousand eight hundred (\$1800.00) dollars. It is hereby made the duty of the Secretary of State to furnish said Commission a suitable office and to furnish the same and supply such Commissioners with all books, stationery, postage, and other articles which may, by said Commissioners, be required in the performance of their official duties.

SEC. 7. It shall be the duty of said Commission on the first Monday of each quarter, commencing on the first Monday of July, 1899, to file with the Secretary of State a report showing, with as much detail as practicable, the progress being made with the work before them, and it shall be the duty of the Governor, Attorney General and Secretary of State, as soon after said quarterly report has been filed as they can conveniently do so, to examine said report for the purpose of determining whether or not satisfactory progress has been made by said Commission. If they shall finally decide that satisfactory progress has been made for the past quarter, they shall certify said finding to the State Auditor, whereupon said Auditor shall be authorized, and it shall be lawful for him to draw his warrant on the general fund of the State, in favor of each of the Commissioners for one-sixth (1-6) of the salary herein provided for. And also to draw his warrant for the amount due the clerk of said Board, and for other expenses as herein provided, but in no event shall any of said Commissioners be allowed to receive to exceed two-thirds (2-3) of the salary herein provided for, until said work shall have been completed and the final report made thereon and approved.

SEC. 8. The labors of the Commission shall be concluded on or before the first day of October, 1900, and at said time it shall be the duty of the Commission to file with the Secretary of State three copies of each of said Codes, with the indices and references herein provided for, and the same shall be submitted for action to the Legislature of the State of Idaho at its next general or special session.

SEC. 9. On or before the first day of October, 1900, the Commission shall file five copies of their final report with the Secretary of State, which said report shall contain at length all amendments that in their opinion may be necessary to harmonize and complete the Codes as printed, and which amendments so suggested must refer specifically to the section, chapter or article of the printed Code shown thereby, and the Secretary of State must cause such final report to be printed for the use of the members of the Legislative Assembly.

SEC. 10. Each of the Codes and Indices must be so far completed as to be in a condition to print by the first day of October, 1900, and as soon thereafter as possible, the State Auditor must have five hundred (500) copies of each of said Codes printed in the same type, and body type, as is used in the printing of the Revised Statutes of Idaho, and bound with paper covers, the Code Commissioners being required to read and correct the proof sheets of said volume or volumes to be delivered to the State Auditor corrected, printed and bound, on or before the first day of December, 1900.

SEC. 11. Upon the receipt of the printed Codes, the Auditor must deliver one printed copy of each volume of said Codes to each member of the Legislative Assembly, which printed volume, when so delivered must have the effect of bills printed for the use of the members of the Legislative Assembly, and shall also deliver, by mail or express, one copy of each volume to each judge of any court of record in the State of Idaho, one copy of each volume to each State officer, county attorney, members of the board of county commissioners, and seven copies of each volume to the clerks of the district courts of Idaho, for distribution to, and examination by, the members of the bar of such courts, and to each member of the Code Commission, five copies of each volume.

SEC. 12. There is hereby appropriated out of any money in the State treasury, not otherwise appropriated, the sum of thirteen thousand five hundred (\$13,500) dollars, or so much thereof as may be necessary for carrying out the provisions of this Act.

Approved, March 2, 1899.

S. B. NO. 26.

AN ACT

TO REGULATE THE PRACTICE OF MEDICINE AND SURGERY WITHIN THE STATE OF IDAHO; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ACT, AND THE REPEAL OF ALL OTHER ACTS IN RELATION THERETO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Governor of the State, within sixty days from the expiration of the session of the Legislature at which this Act shall have been passed, shall appoint a Board of Medical Examiners to be known and styled "The State Board of Medical Examiners" consisting of six members, a majority of whom shall never be appointed from nor represent, any one school of medicine, and not less than three schools of medicine shall be at all times represented on said Boards, all of whom shall be graduates of reputable medical colleges or universities, in good standing, and learned and skilled in the theory and practice of medicine and surgery, and of good moral repute. The terms of office of the members forming the first Board under this Act shall be as follows, viz: Two members thereof shall be appointed to serve for a period of two years, and two members thereof shall be appointed to serve for a period of four years, and two members thereof shall be appointed to serve for a period of six years. After which all subsequent appointments shall be for a period of six years, and until their successors shall have been appointed and qualified. All persons appointed to serve under said Board shall, upon assuming the duties thereof, make oath before a district or probate judge that they are graduates of colleges or universities in good standing, giving names and location thereof, and that they will faithfully and impartially perform the duties of such office. These oaths shall be made in duplicate, one to be retained on file in the office of the secretary of said Board, and one to be forwarded to the Secretary of State, who shall on receipt of the same, issue to each member appointed on said Board, and complying with this section a certificate of such appointment, under his hand and the great seal of the State: *Provided*, That the Governor shall remove any member of said Board who shall be guilty of any criminal or dishonorable conduct, or who shall be guilty of any unprofessional conduct forbidden by this Act, upon recommendation from the said Board, made pursuant to a resolution thereof, duly authenticated and accompanied by all the facts and testimony in possession of said Board,

upon which the said resolution is based. Vacancies occurring from death, resignation or any other cause shall be filled by appointment by the Governor within thirty days from the time such vacancies occur, and such appointee shall serve during the unexpired portion of the term of the member whose place he fills; *Provided, further,* That after the Board shall have been constituted and organized, no person otherwise eligible shall thereafter be appointed on said Board who is not in possession of a license to practice medicine and surgery in this State under the provisions of this Act.

SEC. 2. Said Board shall have authority to prescribe and establish all needful rules, regulations and by-laws, not inconsistent with the laws of this State, or the United States, to carry into effect the provisions of this Act.

SEC. 3. Said Board shall organize immediately after appointment by electing from among its members a president, secretary, and a treasurer, and shall provide a seal and shall attest its acts under said seal. Any member of the Board shall have the authority to administer oaths,—and the Board shall have authority to take testimony whenever the same is necessary in any manner relating to its official acts or duties. Said Board shall hold regular meetings on the first Tuesday in the months of April and October in each year at the capital of the State, or at such other places as the Board shall designate. Special meetings may also be called, when, in the opinion of a majority of the said Board the same, is necessary, and shall be held at such times and places as a majority of the Board may designate. Said Board shall keep a minute book or general book of record in which all the official acts, proceedings, and transactions of said Board shall appear in full. They shall also keep in addition thereto a "cash book," in which shall appear in detail all receipts and disbursements of said Board. They shall also keep a special register, containing the names and addresses of all applicants for license, together with the data required to be furnished in the application for said license. Said special register shall also show whether the applicant received license or was rejected, and if the applicant was rejected, it shall contain a full statement of the reasons therefor. Said general book of record, the cash-book, and the special register, shall be prima facie evidence of all matters therein recorded, and shall be public records in charge of the secretary of the Board.

SEC. 4. The Board shall make an annual report to the Governor of the State, which report shall set forth a full and complete history of all its official acts during the year, and shall also contain a true statement of all receipts and disbursements of said Board for the period so reported.

SEC. 5. All persons, except as hereinafter provided, who were legally engaged in the actual practice of medicine and surgery or either of them within the State, at the time of the passage of this Act, under the provisions of the medical act of 1887, shall be licensed without examination to continue such practice under this Act, by making application to the State Medical Examining Board upon, suitably prepared blanks to be furnished by said Board, within six months from the taking effect of this Act. The applicant shall be required to transmit with said application, a certificate from the county recorder from the county in which he or she may reside, that said applicant is a bona fide resident of the State and has recorded his or her diploma under the provisions of the medical act of 1887,

giving date of such record. Persons who received a license under the now defunct medical law of 1897 will simply be required to transmit such license. The fee for license under this section shall be five dollars (\$5) and shall in each case accompany the application. Upon fulfillment of the requirements herein stated, the Board shall issue to said applicant a license to practice medicine and surgery within this State. Persons for whom the provisions of this section are intended, failing or refusing to avail themselves of the same, shall be and are hereby subject to the requirements of section six of this Act.

SEC. 6. After the passage of this Act, every person, except as hereinafter provided, desiring to commence the practice of medicine and surgery, or either of them, within the State shall, immediately and prior to commencing the same, make a written application to the State Medical Examining Board, upon suitable prepared blanks, to be furnished by the Board, for a license so to do. The applicant shall transmit with said application his or her diploma together with an affidavit setting forth that said diploma is genuine and that the applicant is the rightful possessor thereof and the identical person named therein, and that same was obtained by pursuing the regular course of study or examination in said institution, and setting forth that he or she is a citizen of the United States, or has declared their intention of becoming such. If the said diploma has been issued by a reputable college of medicine in good standing, said applicant shall be eligible to examination.

“All applicants shall be examined in the applied branches of the theory and practice of medicine and surgery or either of them, as those branches are taught in the reputable chartered schools of the system of medicine to which the applicant belongs and which the applicant intends to practice, and such examination shall in all cases include anatomy, physiology, pathology, diagnosis, hygiene, chemistry, histology and toxicology.”

No applicant for license shall be allowed to practice medicine and surgery or either of them until such license shall have been granted. The Board shall cause the examination to be scientific and practical and sufficiently thorough to test the applicant's fitness to practice medicine and surgery or either of them and if the applicant correctly answer at least seventy-five per cent of all the questions submitted, said Board shall grant the applicant a license to practice medicine and surgery in this State. Every applicant for license under any of the provisions of this Act, must furnish sufficient evidence to the Board that they are of good moral character. All applications under this section must be accompanied by twenty-five dollars (\$25) which is the fee for examination under this section. Should the applicant fail to pass said examination, the fee is not returnable. The cost of transmission to and from the Board of all papers belonging to an applicant under this or any other section of this Act shall be paid by the applicant. In the case an applicant, for an examination fails to pass the required examination, he or she may be re-examined after the expiration of six months, and within one year, without the payment of an additional fee, and thereafter said applicant may be examined as often as desired at any regular or special meeting of the Board on the payment of the regular fee for such examination. Said Board may also refuse a license, for unprofessional conduct, or conduct of a criminal, immoral, or dishonorable nature.

SEC. 7. The words unprofessional or dishonorable conduct as used in section 6 or any other section of this Act, is hereby declared to mean:

FIRST. The procuring or aiding or abetting in procuring a criminal abortion.

SECOND. The employment of what are popularly known as "cappers" or "steerers" in procuring practice.

THIRD. The obtaining of a fee on the assurance that a manifestly incurable disease can be permanent cured.

FOURTH. A wilful betrayal of the professional secret to the detriment of a patient.

FIFTH. All advertisements of medical business in which untruthful and improbable statements are made.

SIXTH. All advertisements of any kind, of any medicine or means whereby the monthly periods of women can be regulated or the menses can be re-established if suppressed.

SEVENTH. Conviction of any offense involving moral turpitude.

EIGHTH. Habitual intemperance in the use of ardent spirits, narcotics, or stimulants.

SEC. 8. All questions upon the different branches of medicine and surgery submitted by said Board to candidates for examination shall either be written or printed, or partly written and printed, and the question on each branch shall be arranged upon separate sheets of paper and numbered consecutively. The candidates shall be supplied with a list of the questions upon but one branch or subject at a time, which, after completing his or her answers thereto, he or she shall be entitled to the next list of questions, and so on in like manner until said candidate shall have been examined in all the branches required. All answers to the questions thus submitted shall be in writing, upon suitable paper furnished by the Board, no candidate being permitted to furnish his or her own paper for such written answers. Each list of the candidate's answers shall bear the same title as the corresponding list of questions, and each answer shall be numbered to correspond with the question to which it refers. The questions submitted by the Board to each candidate examined, together with the answers thereto, shall be placed and kept on file in the office of the secretary of said Board, and shall constitute part of the records of said office.

SEC. 9. When complaint is made to the Board, of unprofessional or other conduct, on the part of any licentiate, under the provisions of this Act, meriting a suspension, revocation or cancellation of his license, the Board shall have power to hear evidence for and against the accused, touching such complaint, and if the Board be satisfied from the evidence of the justice of such complaint, the Board must institute proper proceedings in the district court in and for the county where such licentiate resides, for the suspension or revocation and cancellation of such license, and the district courts of this State are hereby vested with jurisdiction to hear and determine all such proceedings, and to suspend or revoke and cancel any license at issue in any such proceeding. The accused shall be entitled to appear in person or by counsel at every stage of any such proceeding, from the first hearing of said complaint before the Board to the final disposition of the case in the district court. All costs incident to any such proceeding in the district court shall be assessed by the court as the justice of the case in the discretion of the court, may require. In all such proceedings the county attorney shall appear for the Board in

the district court. In case the Board refuse to grant a license to practice under this Act, the applicant shall have the right to have the action of the Board refusing such license reviewed by the district court in and for the county in which the meeting at which the license was refused was held, or such other county as may be agreed upon: *Provided*, proceedings for such review be instituted within ten days after notice of such refusal upon the applicant.

SEC. 10. Any person practicing medicine and surgery within this State, without having obtained the license herein provided for, or contrary to the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars, nor more than three hundred dollars, or by imprisonment in the county jail not less than ten days, nor more than six months, or both such fine and imprisonment, in the discretion of the court, together, with the costs of prosecution, and each day such person continues to practice medicine and surgery, contrary to the provisions of this Act, shall constitute a separate offense.

SEC. 11. Every person receiving a license under this Act shall within thirty days thereafter have the same recorded in the office of the county recorder, within the county where the licentiate intends to practice. Otherwise, said license is void. The county recorder of each county shall have, suitably prepared, a separate "book of record," in which all the licenses under this Act, presented to them, shall be recorded, and on the first day of December of each year, furnish the secretary of "State Medical Examining Board" a list of the licenses on record in his office, and upon notice to him from said secretary of the revocation of any license on record in his office or of the death or removal from the county, of any person whose license is on record therein, said recorder shall make a note of the fact on the page containing the record of said license, so that the records kept by said county recorder shall correspond with the records of his county, as kept by the secretary of said medical Board.

SEC. 12. All licenses issued by the Board, shall be numbered consecutively and in the order issued. Each license shall be signed by the president and secretary of the Board, under the official seal of the Board issuing the same. Four members of the Board shall constitute a quorum to transact business at any regular or special meeting.

SEC. 13. The words "respectable or reputable medical college or university in good standing" are hereby declared to mean such medical colleges or universities as are legally chartered, reputable, and in good standing within the State or country where they are located.

SEC. 14. Any person shall be regarded as practicing medicine and surgery, or either, who shall advertise in any manner, or hold himself or herself out to the public as a physician and surgeon, or either, in this State, or who shall investigate or diagnosticate or offer to investigate or diagnosticate any physical or mental ailment of any person with a view of relieving the same as is commonly done by physicians and surgeons, or suggest, recommend, prescribe, or direct, for the use of any person, sick, injured or deformed, any drug, medicine, means or appliance for the intended relief, palliation, or cure of the same, with the intent of receiving therefor, either directly or indirectly, any fee, gift, or compensation whatsoever: *Provided, however*, This Act shall not apply to dentists and registered pharmacists or midwives in the legitimate practice of their re-

spective professions, nor to services rendered in cases of emergency, where no fee is charged. Any person who shall present to the Board, as his or her own, the diploma of another, or a forged affidavit of identification, or who shall attempt to personate another practitioner of a like or different name, shall upon conviction thereof, be subject to such fine and imprisonment as are made and provided by the statutes of the State of Idaho for the crime of forgery.

SEC. 15. It shall be the duty of the county attorneys to prosecute all violations of this Act within their respective counties. And all cases of appeal to the Supreme Court of the State, the Attorney General thereof shall represent said Board upon such appeal. The Board shall investigate all complaints of non-compliance with or violations of, the provisions of this Act, and to bring all such cases to the notice of the proper prosecuting officers.

SEC. 16. This Act shall not apply to commissioned medical officers of the United States Army, Navy, and Marine Hospital service in the discharge of their official duties, nor to railway surgeons in the discharge of official duties, nor to legally qualified physicians and surgeons from other States, when called in consultation with any legally qualified physician and surgeon of this State.

SEC. 17. The members of said Board shall look alone to the revenues of this Act for reimbursement of actual expenses incurred in attendance upon the business of sessions of said Board and they shall look alone to the same source for their per diem allowance, which shall not exceed the sum of five dollars per day each, for each day said Board may be in actual session.

SEC. 18. The Governor is hereby empowered to receive from the late secretary of the now defunct State Board of Medical Examiners all property and money in his possession belonging to the said Board, and to deliver same to the secretary of the State Board of Medical Examiners to be by him appointed under this Act.

SEC. 19. All other acts and parts of acts regulating the practice of medicine and surgery in this State are hereby repealed.

"SEC. 20. Whereas, an emergency is hereby declared to exist, this bill shall be in force and take effect from and after its passage and approval by the Governor."

Approved, March 3, 1899.

S. B. NO. 28

AN ACT

TO AMEND CHAPTER THREE OF TITLE EIGHT OF THE CIVIL CODE, RELATING TO RIGHTS OF WAY AND EASEMENTS FOR THE DEVELOPMENT OF MINES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section three thousand one hundred and thirty-two of the Civil Code be amended to read as follows:

Section 3132. When the owner, claimant, or occupant of any mine or mining claim desires to work the same, and it is necessary to enable him to do so successfully and conveniently, that he have a right of way for any of the purposes mentioned in the foregoing sections, if such right of way cannot be acquired by agreement with the claimant or owner of the lands or claims over, under, through, across or upon which he seeks to acquire such right of way, he may commence an action in the district court in and

for the county in which such right of way, or some part thereof, is situated, by filing a verified complaint containing a particular description of the character and extent of the right sought, a description of the mine or claim of the plaintiff, and of the mine or claim and lands to be affected by such right of way or privilege, with the name of the occupant or owner thereof. He may also set forth any tender of compensation that he may have made, and demand the relief sought.

SEC. 2. That section three thousand one hundred and thirty-three of the Civil Code be amended to read as follows:

Section 3133. Upon the filing of such complaint the clerk must issue a summons as provided in other civil actions, and the same must be served in the manner prescribed by law for service in ordinary actions.

SEC. 3. That section three thousand one hundred and thirty-four of the Civil Code be amended to read as follows:

Section 3134. At any time after the service of the summons the plaintiff may upon ten days notice to the defendant apply to the district court or the judge thereof for the appointment of commissioners, to assess the damages resulting from the grant of such right of way. If upon the hearing of such motion, and the affidavit and proofs offered by the respective parties, the judge shall be of the opinion that the plaintiff has made a prima facie case entitling him to the relief demanded in the complaint, or any part thereof, he shall appoint three commissioners, who must be disinterested persons, residents of the county, to assess the damages resulting to the claims, mines, or lands of defendant. But if such commissioners are not applied for and appointed, or their award is not approved by the judge or court, or if an appeal is taken from their award as hereinafter provided, the action shall be tried and determined by the court, and the provisions of the Code of Civil Procedure applicable thereto shall govern the proceedings therein as in other civil actions; either party shall be entitled to a jury trial and may move for a new trial and appeal as in other cases.

SEC. 4. That section three thousand one hundred and forty of the Civil Code be amended to read as follows:

Section 3140. The prosecution of an appeal from the award of the commissioners or from the judgment of the district court does not hinder, delay or prevent the plaintiff from exercising all the rights and privileges granted by the award or judgment, if he deposit with the clerk of the district court the full amount of the damages awarded or adjudged the defendant and execute and deliver to the clerk a bond with sufficient sureties to be approved by the clerk, in an amount to be fixed by the judge of the district court, conditioned to pay to the defendant any additional amount, over and above the amount so deposited, that defendant may recover, and all costs to which he may be entitled under the provisions of this chapter. At any time after such deposit and before the final determination of the action the defendant may, upon demand, receive from the clerk the amount so deposited, but his acceptance of the same, or any part thereof, shall bar any further prosecution of the appeal and shall be deemed an acquiescence and consent to the award and judgment, and the defendant shall not be entitled to any costs subsequent to the deposit.

SEC. 5. That section three thousand one hundred and forty-one of the Civil Code be amended to read as follows:

Section 3141. If the defendant recover judgment against the necessity of the easement, or for fifty dollars more damages than the plaintiff has

tendered him as provided in the next section, or for fifty dollars more damages than the commissioners or judgment of the district court awarded him, he shall recover the costs of the appeal, otherwise he must pay all such costs.

Filed, March 9, 1899.

S. B. No. 38.

AN ACT

TO SUPPRESS CONTAGIOUS AND INFECTIOUS DISEASES OF SHEEP; TO CREATE THE OFFICE OF STATE SHEEP INSPECTOR AND OF DEPUTY SHEEP INSPECTORS, TO PROVIDE FOR THE APPOINTMENT OF THE SAME AND FIX THEIR COMPENSATION; MAKING THE DOING OF CERTAIN ACTS A CRIME AND PROVIDING FOR THE PUNISHMENT OF THE SAME, AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The office of Sheep Inspector for the State of Idaho is hereby created. It shall be the duty of the Governor, within twenty days from and after the passage of this Act, to appoint some suitable, capable and discreet person and practical sheep grower to fill said office.

SEC. 2. The said Sheep Inspector shall receive as full compensation for his services a salary of four hundred (\$400.00) dollars per annum, to be paid as the salary and fees of other State officers are paid.

It shall be the duty of the State Sheep Inspector to have general supervision over his deputies appointed under the provisions of this Act, and to aid, counsel and advise with such deputies, and generally to enforce the provisions of this Act.

The said Sheep Inspector shall have the same power within the entire State as the deputies appointed by him have in their respective districts, and where the services of the State Sheep Inspector are demanded in a county or district other than that in which he resides, to settle differences between sheep men and any deputy, it shall be the duty of the said State Sheep Inspector to go and adjust such differences, and the said party or parties demanding such services shall pay the actual traveling expenses of said State Sheep Inspector.

SEC. 3. Said State Sheep Inspector shall hold his office for the term of two years, and until his successor is appointed and qualified, unless sooner removed by the Governor. Before entering upon the discharge of his duties as such officer, he shall file an official bond in the sum of two thousand (\$2,000) dollars conditioned for the faithful performance of the duties of his office, in form and manner as other official bonds of State officers.

SEC. 4. Such State Sheep Inspector shall have power, and it shall be his duty to divide each county or counties into districts, and to appoint for such districts one or more deputy inspectors, as in his judgment may seem necessary. Such deputies shall hold office until their successors are appointed and qualified, unless sooner removed by the State Sheep Inspector. They shall be practical sheep men who, before entering into the duties of their office, shall take an oath of office as required of county officers, and shall give a bond to the State of Idaho in the penal sum of two thousand (\$2,000) dollars, conditioned for the faithful performance of the duties of such deputy sheep inspector, (such bond shall be approved by the State Sheep Inspector) and be placed on file in his office. Such deputy shall be subject to removal by the State Sheep Inspector, when in his judgment, it shall seem necessary to do so.

SEC. 5. It shall be the further duty of the State Sheep Inspector, with the assistance of the deputies appointed by him in the several districts, to create what shall be known as, "inspection lines," in each county or district where it shall be deemed necessary between the summer and winter ranges. And shall cause a notice containing a careful description of said "inspection line" in each county, to be published for three weeks in some newspaper published in said county and upon the last publication thereof, due notice of the location of such inspection line shall be deemed to have been given. The expense of such publication shall be a charge against the county, where such notice is given, payable as other charges; *Provided*, That this section shall not be so construed as to prohibit other stock crossing said inspection lines, and occupying the range inclosed by said lines.

SEC. 6. It shall be unlawful for any person, persons, company, or corporations owning, controlling or managing any band or herd of sheep to drive or herd or cause to be driven or herded across such line going to or returning from the summer range without first having his or their sheep inspected and obtaining the Sheep Inspector's certificate, showing such sheep to be free from scab, and sound.

Any person, persons, company or corporation violating this section shall, be guilty of a misdemeanor and shall be upon conviction, be punished by fine of two hundred and fifty (\$250.00) dollars, and such fine shall constitute a first lien upon said sheep, so driven or herded and shall be collected as provided for in section 14 of this Act.

SEC. 7. The State Sheep Inspector and his deputies appointed under this Act shall have the power to administer oaths so far as the same may be necessary in the proper performance of their duties, and any person who shall, contrary to said oath, state as true, any material thing which he knows to be false, is guilty of perjury.

SEC. 8. It shall be the duty of at least one deputy inspector in each county or district to be designated by the State Sheep Inspector, to personally examine all sheep and bands of sheep in his county or district thereof, between the first day of March and the first day of June of each year and again between the first day of September and the first day of November of each year; and to the owners and persons in charge of herds found to be clean, he shall issue a certificate stating such fact, which certificate shall permit such herd to pass into and through any and all counties in this State so long as they shall remain clean and free from disease; such deputy is required to examine any band or bands of sheep at any time that he may be called upon to do so at the request of one or more sheep growers, in writing stating that such sheep are affected or infected with some infectious or contagious disease, and that there is imminent and immediate danger of the spread of such disease; *Provided*, that upon examination such sheep are found to be clean, the person or persons making such complaint shall pay the expenses of such examination which may be recovered in a civil action therefor, but, in case such inspector, upon making such examination, finds said sheep diseased, he shall forthwith issue his order quarantining said sheep, and they shall be dealt with as provided in section nine hereof.

SEC. 9. Whenever upon an examination of any bands or herds of sheep kept or herded in any county of the State of Idaho, the deputy sheep inspector of such county or district thereof shall find such sheep or any portion of them, affected or infected with the scab or scabbies, or

any other infectious or contagious disease, the entire band or herd shall be considered as infected and treated as such and he shall immediately quarantine the same and forthwith notify the owner or person in charge of said sheep, in writing, to dip said sheep twice for said disease within the period of thirty days from said notice; the first dipping not to exceed fifteen days from the receipt of said notice and the second dipping to be within the period of from eight to twelve days from the first dipping, and also during such period to keep such sheep free from contact with other sheep by such means as he shall specify until after the second dipping.

SEC. 10. Such deputy sheep inspector, or competent persons appointed by him, shall superintend all dipping provided for in this Act and shall have full and complete power to enforce and designate the strength, heat and length of time such sheep shall be in the bath; and all expenses incurred in so doing, including a compensation of five (\$5.00) dollars for every day or part of a day in which said deputy sheep inspector or person appointed by him may be engaged in dipping said sheep, shall become and is hereby made a first lien upon said sheep, and such deputy sheep inspector shall hold said sheep for a period of ten days, unless sooner paid, and, if the same is not paid within such time he shall sell so many of said sheep as may be necessary to realize sufficient money to pay said sum due him, together with the costs and charges of the sale including five (\$5.00) dollars per day for each day he holds said sheep.

Such sale shall be made and conducted in the same manner as sales of personal property on execution out of the district court.

SEC. 11. The owner or owners or controller of any sheep or the deputy sheep inspector or person appointed by him who shall fail to dip said sheep as required by the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred (\$100.00) dollars or more than two hundred and fifty (\$250.00) dollars or by imprisonment in the county jail for a period of not less than two months or more than six months, or by both such fine and imprisonment.

SEC. 12. No person, persons, company, corporation or association within the State of Idaho shall be required to dip his or their bands of sheep between the first day of December and until such time as he or they can shear said sheep in the following spring, nor shall they be required to dip a band or bands of ewes, or any part of them, in which there are ewes with lambs, at any time between the fifteenth day of March and the fifteenth day of May following, of any year; but they must be held in quarantine and kept separate and apart from sound sheep, and the owner, owners, or controllers shall be responsible for all damages as stated in this Act, to be enforced and recovered as herein provided for.

SEC. 13. It shall also be the duty of said deputy sheep inspector to require the owner, owners or controllers of sheep while held in quarantine during the period mentioned in the above section to spot or hand dress all sheep in their band or bands that show any scab or any contagious or infectious disease, with some reliable medicine; and such deputy sheep inspectors shall have the power to enforce such hand dressing or spotting during the period above referred to the same as he has power to enforce dipping at any other period of the year as provided in this Act.

SEC. 14. Should any owner or person in charge of any sheep found to be infected upon examination by the deputy sheep inspector, fail or refuse to dip said sheep or should do so in an improper manner, it shall be the duty of said deputy sheep inspector to seize said sheep and to dip the same. And when the same shall have been dipped, he shall notify the owner or person in charge of the amount of the costs, charges and expenses due for the same. If such owner or person in charge shall refuse for the period of ten days after receiving said notice to pay the same together with all further costs, charges and expenses of holding said sheep, it shall be the duty of the said deputy to sell so many of said sheep as may be necessary to pay the same and all costs and expenses of such sale. Such sale shall be made and conducted as sales of personal property on execution out of the district court.

SEC. 15. The deputy sheep inspectors appointed in the several counties or districts, as provided in this Act, shall receive five (\$5.00) dollars per day for every day or part of a day spent in the performance of his duty, to be paid by the owner or owners of the sheep examined and to be enforced as a lien against the sheep so examined, as provided in section 14 of this Act.

SEC. 16. Any person, persons, company, corporation or association driving, herding or cause to be driven or herded any sheep from any other State into the State of Idaho, shall immediately, upon crossing the State line, notify the deputy sheep inspector of that district, and cause said sheep to be inspected by him, within two miles of the point where said sheep crossed said line.

SEC. 17. It shall be the duty of the deputy sheep inspector upon receipt of such notice of sheep having crossed the State line in his district, at once to inspect the same. And if said sheep are found to be sound, he shall issue a certificate to the owner or person in charge stating that said sheep are clean, and thereafter so long as said sheep remain in this State they shall in all respect be under the provisions of this Act. Any person, or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon a conviction thereof shall be punished by a fine of not less than one hundred (\$100.00) dollars or more than three hundred (\$300.00) dollars. When sheep are brought into this State in violation of the section, it shall be the duty of the deputy sheep inspector of the district or county wherein said sheep may be, immediately to seize the same and hold them, and to file a complaint in a court of competent jurisdiction charging the owner or person in charge of said sheep with a violation hereof and upon the conviction of the defendant in said action, the said deputy shall (unless all fines, costs and charges be immediately paid) sell in the same manner as sales of personal property on execution out of the district court, so many of said sheep as may be necessary to pay the costs and charges of making such sale including the compensation due him, together with the fine imposed in such action.

And a certified copy of the judgment in such action shall be his sufficient warrant for doing the same.

SEC. 18. It is unlawful for any person, persons, company, corporation or association to drive or herd or cause to be driven or herded into the State of Idaho from any other State any sheep infected with the scab or any contagious or infectious disease.

Every person so offending shall be guilty of a felony and shall be punished by a fine of not less than one thousand (\$1,000) dollars or more than five thousand (\$5,000) dollars for each and every offense, or by imprisonment in the State prison for not less than one year nor more than five years.

And the said sheep shall be seized, held and sold if such fine be not paid, in the manner provided for in section 17 hereof.

SEC. 19. Any person, persons, company, or corporation or association within the State, desiring to move his or their sheep which are not sound or are infected by scab or other infectious or contagious disease, shall first obtain from the deputy sheep inspector a traveling permit. Such permit shall only be granted for the purpose of moving said sheep to the nearest suitable point where there is an available dipping works or where one can be constructed, at which place said sheep shall be dipped.

Such sheep shall travel to said point over a route designated by the deputy sheep inspector.

The person or persons moving said sheep shall first notify all parties herding sheep along or over said route that the infected sheep have to travel, of the time they will pass over said route.

And any person, persons, company, corporation or association injured or damaged by reason of the moving of said sheep shall be entitled to recover from the person, persons, company, corporation or association moving the same in a civil action, the amount of damage direct and consequential. *Provided*, however, no party shall be entitled to recover damages who shall voluntarily herd or cause to be herded any sheep on quarantined ground. Said sheep so voluntarily herded shall be considered as scabby without inspection and shall be treated as provided in section 9 hereof.

Any person or persons violating any of the provisions of this section shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not less than three hundred (\$300) dollars or more than five hundred (\$500) dollars or by imprisonment in the State prison for not less than two months or more than six months or by both such fine and imprisonment.

SEC. 20. Any deputy sheep inspector granting a permit allowing sheep to travel, without at the time having first examined the sheep, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred (\$100.00) dollars and not more than two hundred and fifty (\$250.00) dollars.

SEC. 21. Any person or persons owning or having under their control sheep or bands of sheep which have become infected with the scab or other infectious or contagious disease, for a period of fifteen days without reporting the fact to the deputy sheep inspector of such county or district thereof where such sheep are situate, in writing, shall be guilty of a felony and shall upon conviction thereof be punished by a fine of not less than three hundred (\$300.00) dollars or more than five hundred (\$500.00) dollars, or by imprisonment in the State prison for not less than two months or not more than six months or by both such fine and imprisonment. Such fine if not immediately paid shall be collected, together with all costs and charges, by seizure and sale of the sheep as provided in section seventeen hereof.

SEC. 22. It shall be unlawful for any person, persons, company, corporation or association to drive or cause to be driven any sheep into any sheep corral the property of another, without first having obtained in writing the consent of the owner or person having control or custody of such sheep corral. Any person, persons, company, corporation or association violating any of the provisions of this section shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not less than two hundred (\$200.00) dollars or more than five hundred (\$500.00), or imprisonment in the State prison for not less than six months or by both such fine and imprisonment.

SEC. 23. In any action or proceeding, civil or criminal, arising under this Act, any and all persons having any interest in sheep or controlling the same, and concerning which said action or proceeding is had, shall be deemed the owner of said sheep, and shall be liable jointly and severally for such violation. Any herder or shepherd or other person in charge of sheep, may be sworn to give any deputy sheep inspector any and all information as to the condition of the sheep in his charge, to the best of his knowledge, on being requested so to do by the deputy and upon refusing to do so shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five (\$25.00) dollars or more than one hundred (\$100.00) dollars or by imprisonment in the county jail for not less than two months or more than six months, or by both such fine and imprisonment.

SEC. 24. It shall be the duty of each deputy sheep inspector appointed under this Act to keep a book in which he shall record as complete a description as practicable of the marks and brands with which each person in his county or district marks or brands his sheep, and the owners of sheep shall report in writing to such deputy sheep inspector their marks and brands for the purpose of aiding such deputy sheep inspector to make up and keep such records; said deputy sheep inspectors are also required to keep a book, in which they shall record the names of all persons prosecuted for violations of this Act, together with a description of the particular offense charged against him or them, the name of the court in which the prosecution was had, and the result of such prosecution, giving the amount of fines where fines are imposed.

And on the first day of January of each year each deputy sheep inspector appointed under the provisions of this Act, shall make a report to the State Sheep Inspector, which report shall contain a true and correct copy of his record as contained in the books required by him to be kept under the provisions of this Act, which report shall be placed on file in the office of the State Sheep Inspector.

SEC. 25. It shall be unlawful for any person, persons, company, corporation or association, owning, controlling or managing a ferry boat, toll bridge, car, steamboat or other things used for transportation, in the State of Idaho, to allow any sheep to be loaded thereon, unless the party in charge of said sheep shall first produce a certificate from a deputy sheep inspector appointed under this Act, that said sheep are free from scab, scabbies and other infectious or contagious disease.

Any violation of this section shall be deemed a misdemeanor and punishable by a fine of not less than one hundred (\$100.00) dollars or more than two hundred and fifty (\$250.00) dollars.

SEC. 26. Any person, persons, company, corporation or association,

owning, controlling or managing sheep who shall unload such sheep from any car, ferry boat, steamboat, toll bridge or other things used for transportation and move them on to the ranges of Idaho for grazing or other purposes or drive or cause to be driven upon the public highways of this State such sheep, without first having them inspected by a deputy sheep inspector shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred (\$100.00) dollars and not more than three hundred (\$300.00) dollars, and such fine shall be collected by seizure and sale of said sheep as provided in section 17 of this Act.

If such sheep are found to be clean the deputy sheep inspector shall issue a certificate stating such fact. But if they or any portion of them are found to be infected with scab or any other contagious or infectious disease they shall be treated for the same as prescribed in section nine of this Act. And the person, persons, company, corporation or association owning, controlling or managing such sheep shall be guilty of a felony and shall be punished as provided in section 18, hereof.

SEC. 27. If any person, persons, company or corporation in driving or herding any sheep, should get into their herd any stray sheep, they must within fifteen days after discovering the fact notify the owner thereof; and if the owner is unknown, he or they shall forthwith notify the deputy sheep inspector of such county, giving the number of such sheep and the brands of each; and person, persons, company, corporation or association violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty (\$50.00) dollars or more than two hundred (\$200.00) dollars.

SEC. 28. All deputy sheep inspectors are hereby given the power, and it is made their duty, to arrest and bring before a justice of the peace, or other court having jurisdiction of the same, all persons found violating any of the provisions of this Act, where a complaint shall be filed by such deputy sheep inspector, either upon his own knowledge or upon information of such violation; whereupon a hearing shall be had as in other like criminal cases; and such deputy sheep inspectors are hereby vested with the same authority to arrest and to require aid, in the execution of their said office as sheriffs and their deputies of the several counties of the State; *Provided*, That the provisions of this Act requiring the deputy sheep inspectors to prosecute for a violation of the provisions hereof, shall not be construed so as to prevent such prosecution from being commenced and prosecuted by other persons as criminal actions are commenced and prosecuted in other cases.

The deputy sheep inspectors, as full compensation for their services in prosecutions under this Act shall be allowed the same fees and mileage allowed the sheriff for like services, to be paid as other claims against the county.

SEC. 29. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 30. Whereas an emergency exists, therefor this Act shall be in force and take effect from and after its passage.

Approved, Feb. 25, 1899.

S. B. NO. 40.

AN ACT

PROVIDING FOR THE CONSOLIDATION OF INCORPORATED CITIES, TOWNS AND VILLAGES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever two cities, towns or villages organized under the laws of this State, which are adjacent to each other, desire to consolidate so as to form one city, town or village, such consolidation may be made under the provisions of this Act.

SEC. 2. The mayor and council of any city, or the chairman and board of trustees of any town or village desiring such consolidation with the adjacent city, town or village may pass a resolution wherein it shall be stated that such city, town or village desires to be consolidated with the adjacent city, town or village and shall also request the city council or the board of trustees of such adjacent city, town or village to fix a time for the joint session of the city councils or board of trustees of the two cities, towns or villages to pass an ordinance consolidating the same.

SEC. 3. The city council or board of trustees of such city, town or village, shall upon the receipt of such resolution, if deemed expedient, pass a resolution specifying the time and place of holding such joint session of the city councils or board of trustees, of the two cities, towns or villages.

SEC. 4. At the time specified for holding such joint session of such city councils or boards of trustees, the said councils or boards of trustees shall meet at the place specified by the resolution fixing the time and place for holding such joint session, and the mayor of the larger city or chairman of the board of trustees of the larger town or village shall be president of such session, and the clerk of such city, town or village shall be secretary thereof. In case of absence of either or both of said officers the corresponding officers of the smaller city, town or village shall act as president or secretary as the case might be. In the absence of both mayors and chairmen or both clerks the joint session shall elect a president or secretary from the members present.

SEC. 5. Said joint session may be adjourned from time to time until the business for which it is assembled is completed. On all preliminary questions a majority of those present and voting shall be sufficient, but on the final passage of the joint ordinance there must be two-thirds of all the councilmen or trustees elect of each city, town or village voting in the affirmative, to give such ordinance validity.

SEC. 6. The joint ordinance shall be signed by the mayors of both cities or chairmen of both boards of trustees as the case may be and attested by the clerks, and shall be published in some newspaper published in one of the two cities, towns or villages proposed to be consolidated for two successive weeks, prior to the time of the taking effect of the ordinance, and such ordinance shall provide some day in the future when such ordinance shall go into effect, such ordinance shall state the terms upon which the consolidation of the two cities, town or villages shall be effected, and the said joint session shall also adopt a name by which the said consolidated city, town or village shall be known, which name shall be stated in such joint ordinance.

SEC. 7. Said joint ordinance shall define the boundaries of such consolidated city, town or village, and for the purpose of making such boundaries regular may include such territory adjacent to such city, town or village as receives or will receive the benefit of the incorpora-

tion of such cities, towns or villages, *Provided*, That no city, town or village receiving the benefits of this Act shall include within its corporate limits more than one-quarter section of land to each two hundred inhabitants.

SEC. 8. The proceedings of the joint session of the city council or boards of trustees herein provided for, shall be copied in the journal of the proceedings of the city council or board of trustees of the larger city, town or village, and the joint ordinance shall be recorded in the ordinance book of the larger city, town or village.

SEC. 9. All ordinances, rules and regulations of the larger city, town or village shall remain in force and effect over all the territory embraced in such consolidated city, town or village.

SEC. 10. All records, papers and documents of the smaller city, town or village in the hands of the clerk of such city, town or village shall be turned over to the clerk of the consolidated city, town or village, and become the records of such consolidated city, town or village, and the treasurer of such smaller city, town or village shall on demand turn over all money, books, papers, or records in his hands belonging to such smaller city, town or village to the treasurer of the consolidated city, town or village.

SEC. 11. All the claims, debts or demands against either of the cities, towns or villages so consolidated shall be assumed and paid by the consolidated city, town or village.

SEC. 12. All the property of every description, including all debts, claims and demands of every description in favor of either of the cities, towns or villages so consolidated upon consolidation become the property of the consolidation of the consolidated city, town, or village.

SEC. 13. After the passage of such ordinance herein provided for a true copy of such ordinance shall be filed with the clerk of the board of county commissioners for the county in which such city, town or village is situated, and such board shall, if it appears that the provisions of this Act have been complied with, shall make an order that such cities, towns or villages are duly consolidated and incorporated under the name adopted by such joint ordinance, and embracing the territory described in such ordinance, said board of county commissioners shall also provide for the first election to be held in such consolidated city, town or village, which election and the notice thereof shall be the same and conducted in the same manner as other village elections, and *Provided further* that the city council or board of trustees of the larger city, town or village shall be deemed the city council or board of trustees of the consolidated city, town or village, *Provided further*, That if such ordinance is adopted within two months of the annual election held in the cities, towns and villages of this State, that no election need be provided for, but the city council or board of trustees of the larger city, town or village shall be deemed the officers of the consolidated city, town or village until such annual election, and the annual election shall be the first election of such consolidated city, town, or village.

SEC. 14. Whereas an emergency exists, therefore this Act shall take effect and be in force after its passage and approval by the Governor.

Approved, Feb. 25, 1899.

S. B. No. 42.

AN ACT

MAKING IT UNLAWFUL FOR ANY INDIAN CONNECTED WITH ANY UNITED STATES INDIAN AGENCY, TO HAVE IN HIS POSSESSION, OR TO BEAR FIREARMS BEYOND THE LIMITS OF THE COUNTY OR COUNTIES WITHIN WHICH THE RESERVATION IS SITUATED DURING THE CLOSE GAME SEASON.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be unlawful for any Indian who is connected with any United States Indian agency, to have in his possession, or to bear firearms beyond the limits of the county or counties within which the reservation is situated during the close game season, between the first day of January and the first day of September in each year.

SEC. 2. A violation of the foregoing section shall be deemed a misdemeanor, and it shall be the duty of any sheriff, constable, or other peace officer of the county where the offense shall be committed, to forthwith disarm such Indian, and to hold such firearm or firearms subject to a redemption, upon payment to the officer of the sum of ten dollars, one-half of which sum shall go to the officer performing the service, and the remaining one-half to be paid into the county treasury for the benefit of the school fund of said county.

SEC. 3. Upon taking possession of the firearms as provided in this Act, the officer shall immediately notify, by mail, the agent at the Indian agency to which the Indian belongs, that he holds such firearms subject to redemption as herein provided, and if the same be not redeemed within a period of thirty days after the deposit of such notice in the post office, then such firearms shall be sold by the officer, in the same manner provided for sales upon execution out of justices' courts, the proceeds to be applied first to the payment of the costs and expenses of the sale, together with a fee of five dollars to the officer performing the service, the balance to be paid into the county treasury for the benefit of the school fund of said county.

SEC. 4. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 5. Whereas an emergency exists this Act shall be in effect and force from and after its passage and approval by the Governor.

Filed, Feb. 28, 1899.

S. B. NO. 45.

AN ACT

GRANTING TO RAILROADS THE RIGHT OF WAY THROUGH STATE AND SCHOOL LANDS OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the right of way through the State or school lands of Idaho is hereby granted to any railroad company duly organized under the laws of this State, or any other State, or by the Congress of the United States, having complied with the laws of this State respecting foreign corporations doing business in this State, and having filed with the Secretary of State a copy of its articles of incorporation and proof of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also ground adjacent to such right of way for station buildings or workshops not to exceed in amount five acres for each station or workshop to the extent of one station building or workshop for each five miles of its road;

Provided, that if any section of said road is not completed within five years after the filing of the articles of incorporation as provided herein, the

rights herein granted shall be forfeited as to such uncompleted section of said road. Due proof of the completion of any section of said road shall be filed with the Secretary of State immediately upon the completion thereof.

SEC. 2. That any railroad company desiring to secure the benefits of this Act shall within twelve months after the location of its road file with the Secretary of State a profile of its road through such State, or school lands, and pay the State in cash the value of the lands sold as the value thereof shall be appraised by or under the direction of the State Board of Land Commissioners. *Provided*, that no lands sold shall be appraised for a less sum than ten dollars an acre and in proportion thereto for a fractional part of an acre.

SEC. 3. Upon compliance with all the provisions herein, the Governor shall under the great seal of the State issue a deed therefor to the said railroad company, which deed shall be attested by the Secretary of State and the Secretary of the State Board of Land Commissioners, and a record thereof shall be kept in the office of the State Board.

SEC. 4. Whereas an emergency exists therefor, this Act shall be in force and effect from and after its passage and approval.

Approved, Feb. 28, 1899.

S. B. NO. 48.

AN ACT

FOR THE RELIEF OF SOL. HASBROUCK AS CLERK OF THE SUPREME COURT OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the sum of four hundred dollars be and the same is hereby appropriated out of any money in the State treasury, not otherwise appropriated, to pay a balance of salary due Sol. Hasbrouck for two years last past, caused by the former Legislature failing to appropriate sufficient to pay his salary as fixed by law.

SEC. 2. That the sum of one thousand dollars be and the same is hereby appropriated out of any money in the State treasury, not otherwise appropriated to pay the compensation of a deputy clerk of the Supreme Court, resident at and keeping his office at the city of Lewiston, as provided by law, for the two years last past, and which the last Legislature failed to make any appropriation for. The services having been duly performed and paid for by the clerk of said court.

SEC. 3. The State Auditor is hereby authorized and directed to draw his warrant on the State Treasurer for the sum of one thousand and four hundred dollars in favor of Sol. Hasbrouck, and the State Treasurer is hereby directed to pay the same out of any money in the State treasury not otherwise appropriated.

SEC. 4. An emergency existing this Act shall take effect and be in force from and after its passage.

Filed, March 18, 1899.

S. B. NO. 52.

AN ACT

TO GIVE DUE RECOGNITION TO THE VOLUNTEERS OF IDAHO WHO ARE NOW SERVING THEIR COUNTRY'S CALL IN THE ARMY OF THE UNITED STATES; AND MAKING AN APPROPRIATION IN ORDER TO CARRY OUT THE SAME.

WHEREAS, the United States Government has been engaged in war with a foreign nation, and, whereas, as such war has been happily terminated,

and whereas, the patriotic young men of our State who so readily enlisted to defend our national honor, will soon be mustered out of service,

Now, therefore, it is appropriate that we, the Legislature of the State of Idaho, in some manner manifest the gratitude it feels toward our patriotic sons for their honorable service: *Now therefore be it enacted by the Legislature of the State of Idaho:—*

SECTION 1. That there be and hereby is appropriated out of any State funds not otherwise appropriated the sum of five hundred dollars (\$500.00) or so much thereof as will be necessary to carry out the purposes of this Act.

SEC. 2. That there shall be prepared a suitable and appropriate photo-engravure certificate of honorable service, in numbers sufficient to furnish one to each of our volunteers, which by its terms expresses the feelings of gratitude of the Commonwealth of Idaho toward such volunteers.

SEC. 3. That such certificate of honorable service be procured under the direction and supervision of the Governor of the State of Idaho and the Adjutant General: That such certificate of honorable service shall bear the name of the volunteer, date of enlistment, date of discharge, or death, as the case may be, and shall contain such illustrations as may be appropriate, and one to be presented to each volunteer at the time of his being mustered out in this State, and in the event of his having been mustered out without the State then it shall be sent to such volunteer when his place of residence is known to the Adjutant General of the State, and, in case of the death of any one of our volunteers before the date of the mustering out of said volunteer then such certificate shall be delivered to his nearest of kin who resides in the State or elsewhere.

SEC. 4. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, Feb. 25, 1899.

S. B. NO. 55.

AN ACT

STATE LAND: EXTENSION OF TIME FOR FINAL PAYMENT THEREFOR.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. In all cases where satisfactory evidence is shown to the State Board of Land Commissioners, that any bona fide occupant of land heretofore purchased from the State, is unable to pay to the State the amount of the principal due thereon at the expiration of the ten years' limit provided by law when the sale of such land was made, and it shall further appear that all interest due on said principal has been fully paid, the time within which final payment upon such land may be made is hereby extended for a term of three years from and after the date upon which such final payment became due by the provision of the original sale.

Provided, That all purchasers desiring the benefit of such extension of time for said years, or either of them shall comply with section 2 of this Act.

SEC. 2. Every purchaser of State land desirous of procuring an extension of time for making final payments on lands sold as provided in section one, must present sixty days (or at some earlier date) before said final payment becomes due an affidavit substantially as follows:

State of Idaho }
 County of }

.....being duly sworn, deposes and says that he is at present occupying and in possession of a certain tract of land, described as follows, to wit: which was sold by the State of Idaho to on the 189....; that said land has been and is now occupied improved and cultivated in good faith with the intention of securing title therefor from said State; that by reason of this affiant is unable to pay the principal or final payment on said land. Wherefore said affiant asks that the term within which final payment for said land must be made may be extended for the term of three (3) years.

Subscribed and sworn to before me this day of 189....

County Treasurer.

Such affidavits must also be corroborated by similar affidavits of not less than two persons, not purchasers of State lands and bona fide residents in the vicinity of the land described in applicant's affidavit. All such affidavits must be made before the county treasurer of said county in which the land is situated.

County treasurers are hereby empowered to administer oaths for such purposes.

SEC. 3. Affidavits for extension of time provided for in this Act must be presented to the State Board of Land Commissioners, and, if the facts established by such affidavits are satisfactory to said Board the extensions applied for must be granted; and proper entries shall thereupon be made in the records of said Board, and notice of such extension be immediately forwarded to the respective county treasurers who must thereupon make the proper entries in the records of their office.

SEC. 4. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved, February 28, 1899.

S. B. NO. 59.

AN ACT

ENTITLED AN ACT, TO AUTHORIZE THE IDAHO STATE BOARD OF LAND COMMISSIONERS TO CANCEL THE CLAIMS AGAINST SETTLERS ON STATE LANDS PURCHASED OF THE STATE WHICH HAVE FOR NON-PAYMENT OF INTEREST, REQUIRED BY LAW, BEEN DECLARED FORFEITED TO THE STATE.

SECTION 1. Whereas, during the years 1897 and 1898 the Idaho State Board of Land Commissioners, by authority vested in them, declared the rights to settlers on State lands, forfeited to the State, in 355 cases by reason of non-payment of interest thereon, as required by the laws of the State of Idaho. And whereas: there is now due the State, by settlers upon said forfeited lands, the sum of \$112,670.58, and said amount not being collectable without great expense to the State; And whereas, the first payment made to the State by said settlers of ten per cent. and interest thereon, aggregating the sum total of \$94,466.31 the same being deemed ample compensation to the State for occupancy by said settlers, on said lands, prior to the forfeiture thereof to the State.

SEC. 2. *Now therefore be it enacted by the Legislature of the State of Idaho.* That the Board of Land Commissioners of the State of Idaho are hereby authorized to cancel all unpaid claims on account of the pur-

chase of said forfeited lands by the settlers thereon that may be due on interest and remaining unpaid, on said lands, declared forfeited to the State, and on relinquishment of all right, title and interest by said settlers, upon said forfeited lands to the State, and upon the filing of said relinquishment with the State Board of Land Commissioners, and the yielding of possession of said lands to the State, it shall be lawful for said State Board of Land Commissioners, to cancel all claims for unpaid balances of interest due the State of Idaho by said settlers upon said forfeited lands and receipt to said settlers in full of said claims thereof.

SEC. 3. This Act shall take effect and be in force sixty days from and after its passage.

Approved, March 13, 1899.

SUBSTITUTE FOR S. B. NO. 61.

AN ACT

TO PROTECT MECHANICS, LABORERS, MATERIAL MEN AND OTHER PERSONS, WHO PERFORM LABOR UPON OR FURNISH MATERIAL OR OTHER SUPPLIES FOR MINES, BUILDINGS, CANALS, DITCHES, TUNNELS, RAILROADS, WAGON ROADS, AQUEDUCTS, OR OTHER STRUCTURES AND REQUIRING THE PERSON, PERSONS, COMPANY OR CORPORATION OPERATING ANY MINE OR MINING PROPERTY, OR HAVING CHARGE OF THE ERECTION OR REPAIR OF ANY BUILDING OR OTHER STRUCTURE, OR THE CONSTRUCTION OF ANY CANAL, DITCH, TUNNEL, RAILROAD, WAGON ROAD, OR AQUEDUCT, TO PUBLISH AND POST STATEMENTS, UNDER OATH, SETTING FORTH SUCH DATA AS WILL PUT MECHANICS, LABORERS, MATERIAL MEN AND OTHER PERSONS IN POSSESSION OF THE CONDITIONS UNDER WHICH WORK IS BEING PROSECUTED AND PROVIDING A PENALTY FOR VIOLATION OF THE PROVISIONS OF THIS ACT

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be the duty of any person, persons, company or corporation, engaged in working any mine, mines, mining premises or in developing any mining claim or claims, whether quartz or placer, or in the running of any tunnel, or in the erection or repair of any building or other structure, or in the construction of any canal, ditch, railroad, wagon road or aqueduct, in every case where mechanics or laborers are employed in or about the properties above mentioned to make, record and publish a statement under oath, setting forth such data as are provided in section 2 of this Act.

SEC. 2. The statement required by the preceding section shall contain the following data:

FIRST. The name or names of the owner or owners of the mine, mines, mining claim or premises, tunnel, building, canal, ditch, railroad, wagon road, aqueduct or other structure upon which work is being done or upon which it is intended to begin work.

SECOND. The name or names of the person, persons, company or corporation engaged in or who contemplates engaging in work upon any of the properties or structures mentioned herein.

THIRD. The conditions under which said person, persons, company or corporation is prosecuting said work, whether as owner, agent, lessee, contractor, sub-contractor, contemplative purchaser or lien-holder.

FOURTH. The principal office of said person, persons, company or corporation, and if a corporation the State or county where incorporated and the agent in this State on whom service may be had.

FIFTH. The day of the week or month when payment of the laborers, mechanics and material men will be made and the place where said payments will be made.

SIXTH. A statement of all mortgages and liens against the property on

which work is being done, with the amount of each of said incumbrances and whether or not the same is due.

SEC. 3. It shall be the duty of any person, persons, company or corporation, employing mechanics or laborers upon any mine, mines, mining claim or premises, tunnel, building, canal, ditch, railroad, wagon road, aqueduct or other structure at the time this Act shall take effect, to file for record in the office of the recorder of the county in which said labor is being done and if there be a district recorder, then also in the office of said district recorder of the district where said mechanics or laborers are employed, within ten days after this Act shall take effect, a statement under oath, containing the data required by section 2 of this Act; said person, persons, company or corporation, shall also, within ten days after this Act shall take effect, post similar statements in his or its office, at the place where payment of wages is to be made, and in a public and conspicuous place where it can be easily seen at or near the place where said mechanics or laborers are employed.

SEC. 4. Any person, persons, company or corporation who, after this Act shall take effect, shall engage in working, developing or prospecting any mine, mines, mining claims or premises, or in running any tunnel or in repairing or erecting any building, or in constructing any canal, ditch, railroad, wagon road, aqueduct or other structure shall employ any mechanics or laborers in prosecuting said work, shall before employing said mechanics or labors or any of them, make, record and publish in the same manner as is provided in section 3 of this Act, a statement under oath containing the data provided for in section 2.

SEC. 5. Any person, persons, company or corporation, or any managing agent violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by fine, not less than one hundred dollars, or by imprisonment in the county jail not exceeding three months.

SEC. 6. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 7. Whereas an emergency exists, therefor this Act shall be in force and take effect from and after its passage.

Approved, March 14, 1899.

S. B. NO. 70

AN ACT

PROVIDING FOR THE RECORDING OF PROSPECTING AND MINING CONTRACTS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Written contracts relating to prospecting or mining, or to the formation of co-partnership for that purpose, when signed by the parties thereto and indorsed by at least one witness, may be recorded in the office of the county recorder of the county wherein it is proposed to prosecute the business of said co-partnership, or where the property effected by such contract is situated.

SEC. 2. Such record shall be constructive notice to all persons of the matters contained in such contract or co-partnership agreement.

SEC. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

Approved, March 7, 1899.

S. B. NO. 72.

AN ACT

REGULATING THE FEES AND MILEAGE OF WITNESSES IN CRIMINAL PROCEEDINGS; AMENDING SECTION 8151 OF THE REVISED STATUTES OF IDAHO, AS AMENDED BY AN ACT OF THE FIFTH SESSION OF THE LEGISLATURE, APPROVED FEBRUARY 9TH, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 8151 of the Revised Statutes of Idaho as amended by an act of the fifth session of the Legislature of Idaho, approved February 9, 1899, be amended, and the same is amended to read as follows:

When a person shall attend before a grand jury, or the district court, as a witness, upon a subpoena, or pursuant to an undertaking, such person shall receive the sum of twenty-five cents a mile, one way for each mile actually travelled, but no person can receive more than one mileage under this section at one term of the district court; such person shall also receive two dollars per day for each day's actual attendance as such witness. Such mileage and per diem must be paid out of the county treasury of the county where such district court is held, upon the certificate of the clerk of said court: *Provided, however,* That when a defendant in a criminal proceeding requires the attendance of more than five witnesses in his behalf, before such witnesses shall be subpoenaed at the county expense, or their fees and mileage be a charge against the county, such defendant must make affidavit setting forth that they are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them. In such case the court, or the judge thereof, at any time application is made therefor shall order a subpoena to issue to such of said witnesses as the court, or the judge thereof, may deem material for the defendant, and the costs incurred by the process and the fees and mileage of such witnesses shall be paid in the same manner that the costs and fees of other witnesses are paid.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved, March 6, 1899.

S. B. NO. 83.

AN ACT

REGULATING THE MANNER OF APPORTIONING ALL MONEY COLLECTED AS POLL TAX AND AMENDING SECTION 1619 OF CHAPTER VIII OF THE REVISED STATUTES OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1619 of the Revised Statutes of the State of Idaho, relating to poll taxes, be and is hereby amended to read as follows:

Section 1619. All money collected as poll tax under the provisions of this chapter, must be paid into the county treasury and must be appropriated to county purposes and shall be apportioned to the "current expense" fund of the county in which same has been collected.

SEC. 2. All acts or parts of acts in conflict with this Act are hereby repealed.

SEC. 3. An emergency existing therefor, this Act shall take effect and be in force from and after its approval by the Governor.

Approved, March 14, 1899.

S. B. NO. 88.

AN ACT

TO PREVENT THE ADULTERATION OF VINEGAR, AND TO REGULATE THE MANUFACTURE AND SALE THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. No person shall manufacture for sale, or knowingly offer for sale, or have in his possession with intent to sell, any vinegar found upon proper test to contain any preparation of lead, copper, sulphuric acid, or other ingredient injurious to health.

SEC. 2. No person, by himself, his servant, or agent, or as the servant or agent of any other person, shall sell, exchange, deliver or have in his custody or possession, with intent to sell or exchange, expose or offer for sale or exchange, any adulterated vinegar, or any vinegar not in compliance with the provisions of this Act. Nor shall he label, brand or sell as cider vinegar, or as apple vinegar any vinegar not the legitimate product of pure apple juice, or not made exclusively from apple cider.

SEC. 3. All manufacturers of vinegar, in the State of Idaho, and all persons who reduce or re-barrel vinegar in this State, and all persons who handle vinegar in lots of one barrel or more, are hereby required to have stenciled or marked in black letters and figures at least one inch in length on the head of each barrel or package of vinegar bought or sold by them the kind (cider, malt, grain or wine etc.) and the standard strength of the vinegar contained in the package or barrel, which shall be denoted by the per cent. of acetic acid. All vinegar except cider, shall have an acidity equivalent to the presence of not less than four and one-half per cent., by weight, of absolute acetic acid and in case of cider vinegar it shall contain not less than two per cent by weight, of cider vinegar solids upon full evaporation over boiling water.

SEC. 4. That no person or persons known as retailers who sell vinegar by the gallon shall reduce by water or other mixtures the strength of vinegar purchased and sold by them, unless he shall mark in plain figures on said package, or barrel, the strength of the vinegar still contained in said package or barrel.

SEC. 5. Whoever violates any of the provisions of this Act shall be deemed guilty of a misdemeanor, and all vinegars found in their possession not in accordance with this Act shall be subject to forfeiture and spoilation.

This Act shall be construed as meaning that the possession of vinegar in barrels or packages shall be prima facie evidence of having the same for sale.

SEC. 6. This Act shall take effect upon approval.

Approved, March 9, 1899.

S. B. NO. 92.

SUBSTITUTE FOR H. B. NO. 182.

AN ACT

TO VALIDATE AND LEGALIZE STATE, COUNTY, SCHOOL, MUNICIPAL OR OTHER BONDS ISSUED UNDER ACTS OF THE FIRST, SECOND, THIRD, AND FOURTH SESSIONS OF THE LEGISLATURE OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. All bonds heretofore duly issued under, in pursuance or by virtue of, and in accordance with, the provisions of any act of the first, second, third or fourth sessions of the Legislature of the State of Idaho are

hereby declared to be good, valid and binding obligations, any question as to the manner of the passage of any such act or acts notwithstanding; and their validity shall not be questioned in any court.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved, March 6, 1899.

S. B. NO. 95.

AN ACT

TO AMEND SECTION TWO OF AN ACT ENTITLED "AN ACT TO ESTABLISH A STATE NORMAL SCHOOL AT LEWISTON, IN THE COUNTY OF NEZ PERCE, IDAHO, AND TO CREATE A BOARD OF TRUSTEES FOR THE MANAGEMENT THEREOF, APPROVED FEBRUARY 7TH, 1899," APPOINTING SAID BOARD OF TRUSTEES AND FIXING THEIR TERMS OF OFFICE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section two of an act entitled "An Act to establish a State Normal School at Lewiston, in the County of Nez Perce, Idaho, and to create a board of trustees for the management thereof," approved February 7th, 1899. be amended to read as follows:

Section 2. The said Lewiston State Normal School shall be under the direction of a board of trustees to be known as "the Board of Trustees of the Lewiston State Normal School." The said Board of Trustees shall consist of six members, to wit: B. F. Morris and C. W. Shaff, who shall hold their terms of office until January 27, A. D. 1901; Jno. P. Vollmer and Geo. E. Erb, who shall hold their terms of office until January 27, A. D. 1903; and James W. Reid and James W. Poe, who shall hold their terms of office until January 27th, A. D. 1905, and their successors shall be appointed for the term of six years by the Governor of the State of Idaho, by and with the advice and consent of the Senate. Before entering upon the duties of his office, each of said trustees shall take and subscribe an oath or affirmation before some person duly authorized to administer the same, that he will support the Constitution of the United States and the State of Idaho, and will faithfully and impartially discharge the duties of the office of trustee of the Lewiston State Normal School, which oath or affirmation shall be filed in the office of the Secretary of State.

SEC. 2. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved, March 6, 1899.

S. B. NO. 97.

DUPLICATE FOR S. B. NO. 10.

AN ACT

AMENDING AN ACT CONCERNING THE DISTRIBUTION OF THE WATERS OF STREAMS WHERE THE SAME HAVE BEEN ALLOTTED BY DECREE OF THE COURT, AND PROVIDING FOR THE PAYMENT OF WATERMASTER'S SALARY, APPROVED MARCH 6TH, 1897, AND ENLARGING THE POWERS AND DUTIES OF SUCH WATERMASTERS AND TO PROVIDE FOR THE DISTRICT COURT TO SUPPLEMENT SUCH DECREE, BY ADJUDICATING RIGHTS NOT INCLUDED IN THE ORIGINAL DECREE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section one of the act of which this Act is amendatory shall read as follows:

Section 1. In all cases where the waters of any stream used for irrigation, domestic or milling purposes, have, by the decree of the district court, been adjudicated and allotted, such court, or the judge thereof, shall, on or before the first day of May of each year, appoint some suita-

ble person as watermaster of the stream or streams named and included in such decree to distribute such water to the user thereof, in accordance with the provision of such decree.

SEC. 2. That section two of said act shall be amended as follows:— Such watermasters shall, as soon as necessary, enter upon the discharge of his duties by first filing with the clerk of the district court in and for the county wherein said decree was rendered, a bond with sureties thereon, to be approved by the judge of said court, in the sum to be fixed by the judge of such court and named in said order of appointment, and by proceeding in person to notify each person receiving water in his district to provide or repair the headgates at the points where they take water from any ditch, dam, or reservoir, and to provide or repair a suitable overflow gauge in each dam; and the watermaster must see that there are provided the necessary gates, flumes, dams, and other devices for distributing water, and he has such control of the location of ditches, dams, gates, flumes and other devices for distributing water as may be necessary to prevent waste and secure the most equitable distribution of the water to all entitled to its use—subject always to review by the district court, or the judge thereof, making said order or decree.

The headgates at the points where the water is taken from any ditch, dam, or reservoir, shall be double, and so constructed that one gate can be locked at any given point by the watermaster; and the watermaster shall place a substantial lock on each gate, so as to equitably regulate the flow of water, and no one but the watermaster or his deputies shall have possession of the keys that belong to said locks.

SEC. 3. That section five of said act shall be amended to read as follows:

Section 5. Such watermasters may appoint suitable persons as deputies who shall have the same powers and shall perform the duties of the watermaster under the same watermaster's direction and such watermaster and his deputies shall receive for their services such compensations as the district court, or judge thereof shall fix; which amount of compensations shall be so fixed by said court, or the judge thereof, at the time of making such aforesaid appointment.

SEC. 4. That section eleven of said act shall be amended to read as follows:

Section 11. Should any of the water users or claimants fail or refuse to provide or repair suitable headgates and overflow gauges, or other devices used to prevent waste, and secure the equitable distribution of water allotted to such persons as provided for in this Act, the watermaster shall cause the same to be repaired or constructed, and shall charge the net expenses of the same to such water claimant, and such charge shall be included in the sworn statement of the watermaster, provided for in section six of the act of which this Act is amendatory, and such amount shall be added to the liabilities of such water claimant as part of his share of expenses of distribution of water for the season, and shall be collected as provided in said section six for the collection of other water expenses.

SEC. 5. No person or persons who have, by the provisions of any decree heretofore or hereafter made by the court, the right to the use of a certain amount of the water of such streams shall waste any of said water willfully or by negligence either by the continuance of the flow of water through his or their ditches in excess of the amount neces-

sarily used, or by lack of proper embankments, dikes, or flumes; and shall keep his or their ditches in good repair so as to prevent the waste of any water, and it shall be the duty of the watermaster to prevent such waste, and upon notice by the watermaster, served in writing upon any claimant or user of such water, that the water diverted from said stream, or the water of any ditch diverting water from said stream, is going to waste, fully describing the cause and place of such waste, such claimant shall be required to so repair said ditch as to prevent such waste; and in case such claimant user of the water suffers such waste to continue for three days after the service of such written notices by the watermaster, such watermaster shall proceed to repair such ditches so as to prevent such waste, and shall charge the net expenses of the same to such water claimant, and such charges shall be included in the sworn statement of the watermaster provided for in section six of the act of which this Act is amendatory, and such amount shall be added to the liabilities of such water claimant, as a part of his share of the expenses of the distribution of water for the season, and shall be collected as provided in section six for the collection of other water expenses.

SEC. 6. That in all cases of claimants of any of the water of any stream, where the water of said stream has been adjudicated by decree of court, who shall claim the right to the use of any of the water of such stream, and shall not have been included in said decree for any cause, may have his right which he so claims to use any of such water summarily adjudicated by the district court of the county when said claim is given by notice by publication in a newspaper in said county, if one be published there, if not then by filing such notice with the clerk of said district court of said county, which notice shall be published for thirty days in such paper, and if there be no paper published in said county, then such notice shall be posted in the office of the said clerk of the court, which notice shall contain substantially the following: That the claimant claims of the water of such stream for irrigation or domestic use certain quantities, naming the quantities and cubic feet per second of time, describing in such notice the place of diversion of such water, the land upon which it is to be or has been used, the amount of land in cultivation at the date of the notice, that the land is arid land, the date of diversion of the water, the amount then diverted and put to a useful purpose, the amount of land in cultivation at the date of such diversion.

SEC. 7. That such claimant, mentioned in section six of this Act, shall file his complaint in the district court at least three days before the first day of the term; his complaint shall substantially set up the state of facts contained in the notice required by the provisions of section six of this Act, together with the allegation that such notice has been published in a newspaper, naming the paper, or filed with the clerk of the district court at least six weeks prior to the first day of said term, and praying the court to take proof of claimant's claim to the use of a proportion of such water, and adjudge and decree his right to the same.

SEC. 8. The district court shall try such claim of said applicant in the same manner, and be governed by the same law and rules as govern the court in the trial of water rights between individual litigants, and shall determine from the evidence the right said applicant shall have, if any, to the use of water of such stream; and shall file such findings, which shall

thereafter become a decree in favor of said applicant against any person trespassing upon the rights established by said decree.

SEC. 9. That upon the filing of a complaint as provided by this Act, praying for a decree awarding to any person a right to the use of any of the water in any stream of which this Act treats, any owner of water of such stream, or any person to whom the court may have heretofore decreed the right of the use of any such water, may file any answer to such complaint, denying generally or specifically the allegations of said complaint, and such person may produce witnesses to disprove the allegation of such complaint, or rebut any testimony offered by such claimant and establishing his right to the use of any such water, and in all such trials any such applicants shall pay all costs incurred by him, and in case any person by answer to such complaint shall create any costs, shall be responsible for all such costs.

SEC. 10. Whereas an emergency exists, therefore this Act shall be enforced and take effect from and after its passage and approval by the Governor.

Approved, March 9, 1899.

S. B. NO. 105.

AN ACT

TO PROVIDE FOR TWO SETS OF ELECTION OFFICERS AND FURTHER PROVIDING FOR THE COUNTING OF BALLOTS BEFORE THE CLOSE OF THE POLLS AND MAKING THE DISCLOSING OF THE STATE OF THE VOTE BEFORE THE POLLS HAVE CLOSED A FELONY, AND PROVIDING A PUNISHMENT FOR THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. In every precinct, where at the general election then next preceding, there were more than one hundred votes cast for the office of Governor, the board of county commissioners of the county wherein the same is situated, shall at the time provided for the appointment of election officers, appoint two sets of such officers and in making such appointment shall designate which set shall act under the provisions of this Act. And such board shall also make suitable provision for the carrying of this Act into effect.

SEC. 2. When, at any election in any precinct to which this Act applies, fifty votes shall have been cast, another ballot box for receiving ballots shall be used and the first ballot box shall be closed and delivered to such judges designated as provided in section one of this Act, who shall proceed to the place provided for them and shall at once count the votes in said ballot box; and when counted, they shall return said emptied ballot box to the judges receiving the ballots and otherwise conducting the election, and the latter shall then deliver to the judges who were designated to count the ballots, the second ballot box and such judges shall immediately count the ballots therein contained as above provided; and they shall continue so to count the ballots and so to exchange the ballot boxes till the close of the polls, after which time both sets of judges shall acting separately, count the remaining ballots dividing the same between them.

SEC. 3. All the judges of election shall join in making the return to the board of county commissioners.

SEC. 4. The boards of county commissioners of the several counties must provide two sets of ballot boxes for all precincts where this Act applies and shall provide suitable and convenient place or room immediately adjoining the place where the election is being held for the use of the elec-

tion officers counting the ballots during the day, and they shall be confined to that room or place and shall not leave the same during the count except in case of necessity and then in the custody of a constable of election; nor shall any such officers in any manner disclose or communicate the state of the vote till after the close of the polls. Any person who shall intentionally ascertain or attempt to ascertain the state of the count before the close of the polls and any officer of election who shall communicate the same to any person not an officer of election, shall be guilty of a felony and shall be punished by a fine of not to exceed one thousand dollars or imprisonment in the penitentiary for not to exceed one year or both such fine and imprisonment.

SEC. 5. This Act shall only apply to general elections.

SEC. 6. Except as herein modified, the general election laws are in every way applicable to the precincts acting under the provisions hereof and to all the officers of election.

SEC. 7. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, March 15, 1899.

S. B. NO. 112.

AN ACT

TO AMEND SECTION THREE OF AN ACT RELATING TO DEPOSITIONS AND PRESCRIBING THE MANNER IN WHICH THEY MAY BE TAKEN AND USED, AND REPEALING SECTIONS 6059, 6060, 6061, 6062, 6063, 6064, 6065, 6066, 6067, 6068, 6069 AND 6070 OF THE REVISED STATUTES, APPROVED FEBRUARY 10TH, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3 of the above entitled act be amended to read as follows:

Section 3. The adverse party shall be allowed one day for each twenty miles required to be traveled from his usual place of abode to the place of taking the deposition by the ordinary route of travel, not exceeding, however, thirty days in all. If served on an attorney or agent a reasonable time shall be allowed him to communicate the same to the party, not exceeding ten days in all.

SEC. 2. An emergency existing therefor, this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, March 14, 1899.

S. B. NO. 113.

AN ACT

PROVIDING FOR THE ISSUE OF STATE BONDS FOR THE PURCHASE OF CHEMICALS AND CHEMICAL AND PHYSICAL APPARATUS, AND FOR THE ERECTION OF TWO DORMITORIES FOR THE LEWISTON STATE NORMAL SCHOOL, AND PRESCRIBING HOW THE PROCEEDS OF THE SALE OF SUCH BONDS SHALL BE EXPENDED.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That for the purpose of providing money for chemicals and chemical and physical apparatus, and for the erection of two dormitories for the Lewiston State Normal School, located at Lewiston, in Nez Perce County, State of Idaho, a loan of seven thousand five hundred (7,500) dollars is hereby authorized to be negotiated by a Board consisting of the Governor, Treasurer, Secretary of State and Attorney General, of

the State of Idaho on the faith and credit of the State of Idaho, and secured by the proceeds of the sale of State Normal School lands and the timber thereon as hereinafter provided.

SEC. 2. The Treasurer of the State is hereby authorized, empowered and directed immediately upon the passage of this Act, to issue fifteen (15) bonds of the State of Idaho, to be known as Idaho Lewiston State Normal School bonds, in the sum of five hundred (500) dollars each, payable in twenty (20) years from the date of their issuance, to bear interest at the rate of five per cent. per annum, payable semi-annually on the first days of January and July of each year at a bank in the city of New York to be selected by the State Treasurer; said bonds however to be redeemable at the option of the State of Idaho, at any time after the expiration of ten (10) years from the date of their issuance, and said bonds shall be plainly numbered from one to fifteen (15) consecutively.

SEC. 3. The State Treasurer is hereby further authorized, empowered and directed, to cause to be printed or lithographed, suitable bonds, in proper form, with coupons attached, for the purposes of this Act. All such bonds shall be signed by the Secretary of State with his own proper name, affixing his official character, and shall be authenticated by the great seal of the State, and shall also be signed or endorsed by the Governor of the State with his own proper name, affixing his official character, and shall then be delivered by the Secretary of State to the State Auditor, who shall make and keep a register of such bonds, showing the number and amount of each bond, and then deliver the said bonds to the State Treasurer, and charge the State Treasurer on the books of the Auditor's office with the full amount of each bond.

SEC. 4. At the time of issuing said bonds under the provisions of this Act, the State Treasurer shall sign them with his own proper name, affixing his official character, and shall in like manner sign the coupons thereunto attached, and such signing shall bind the State. The coupons for the payment of interest shall be attached to said bonds in such manner that they may be taken off without injury or mutilating the bonds, and shall be severally numbered from one to forty, inclusive, each bearing the corresponding number of the bond to which it is attached. The Treasurer shall keep a register of all the bonds issued by him showing the date of issuance, and shall deliver said bonds with the coupons attached as aforesaid, to the purchaser or purchasers, upon the receipt of the purchase money therefor; and the money received from the sale of said bonds shall be by said Treasurer placed in a certain fund to be known as the Lewiston Normal School fund for chemical and physical apparatus and the erection of dormitories, none of said bonds however shall be sold for less than their face or par value. The expense of printing or lithographing and procuring said bonds with coupons attached, shall be paid out of the funds arising from the sale of said bonds.

SEC. 5. For the purpose of securing the payment of the principal of the bonds provided for in this Act, the proceeds of the sale of all the lands, or of timber growing thereon, granted to the State of Idaho by the United States for State normal schools are hereby set apart as a separate and distinct fund to be known as the normal school sinking fund; and after the payment of the principal and interest of the bonds provided for by an Act providing for the issue of said bonds for the benefit of the Albion State Normal School and the Lewiston State Normal Schools,

and prescribing how the proceeds of the sale of said bonds shall be expended, ratified the seventh day of March, 1895; and after the payment of the said principal of the said bonds provided by this Act, then the proceeds of the sales of said land or timber shall be paid into the general fund in the State treasury until an amount, equal to the total amount of interest that has theretofore been paid out of said general fund on said bonds, issued by the said two acts hereinbefore named, less the amount of interest that may have been paid into said general fund from investment of normal school sinking fund moneys in State warrants, as hereinafter provided for, has been so paid into said general fund. When the principal of said bonds shall have been fully paid and the general fund of the State reimbursed for interest on said bonds provided in said two acts as herein specified, then and thereafter the proceeds of the sales of such lands and timber shall be disposed of as may by law be provided.

SEC. 6. At any time after ten (10) years from the issuance of said bonds, whenever there shall be ten thousand (10,000) dollars of said sinking fund, the Treasurer of the State shall make a "call" by publication for sixty (60) days in some daily newspaper in this State, notifying all the parties interested that certain bonds of said normal school bonds provided by the said two acts hereinbefore referred to, giving their numbers will at a certain date be paid at the office of said Treasurer, and the bonds so called shall cease to bear interest from and after the date in said "call" specified.

SEC. 7. At any time when money to the amount of one thousand dollars or more is in said sinking fund it is hereby made the duty of the State Treasurer to invest such money in registered State warrants of this State, and in registered State warrants only, and to hold such warrants until they are redeemed as a part of said sinking fund, and whenever State warrants so held by the Treasurer are paid, the Treasurer shall certify the amount of interest that may have accrued thereon to the State Auditor and the amount of such interest shall thereupon be placed to the credit of and become a part of the General Fund of the State, and the amount of the principal of said sinking fund invested in such warrants shall upon the redemption of said warrants be returned to said sinking fund, to be reinvested in the same manner: *Provided*, That when the principal of said sinking fund is required for the redemption of the bonds called as provided for in this Act, such principal shall not be so invested in such warrants.

SEC. 8. For the prompt payment of the interest that may accrue upon said bonds there is hereby appropriated for each year out of any moneys in the State treasury not otherwise appropriated, an amount equal to the amount of said interest on said bonds as the same may become due, and for the payment of such interest when due the Treasurer of the State shall reserve any and sufficient of the funds in his hands, in preference to all other claims whatsoever, except the interest on bonds of the State heretofore issued pursuant to law.

SEC. 9. When the moneys arising from the sale of said bonds are received by the State Treasurer he shall notify the State Auditor of the amount of money so received, and the State Auditor shall thereupon credit the Treasurer's account with the amount of bonds sold.

SEC. 10. All moneys paid or to be paid into the said Lewiston State Normal School fund, are hereby appropriated to the Lewiston State Nor-

mal School for the purposes of said two acts as hereinbefore stated and provided.

SEC. 11. The moneys in said Lewiston State Normal School fund received from sale of bonds issued under this Act, and hereinbefore stated and provided, shall be paid out for the purchase of chemicals and chemical and physical apparatus, and for the erection and furnishing of the two dormitories for the Lewiston State Normal School.

SEC. 12. The moneys in the said Lewiston State Normal School fund, as hereinbefore provided in this Act, shall be drawn therefrom only upon warrants issued by the State Auditor upon certificates of the secretary of the Board of Trustees of said Lewiston Normal School, countersigned by the president thereof, as provided in section five (5) of "An act to establish a State Normal School at Lewiston," etc.: Approved February 7th, 1899, and approved by the State Board of Examiners.

SEC. 13. Whereas an emergency exists therefor this Act shall be in force and effect from and after its passage and approval.

Filed, March 18th, 1899.

S. B. NO. 114.

AN ACT

TO AMEND SECTION 2 OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE CARE, MANAGEMENT, AND MAINTENANCE OF THE STATE LIBRARY; PRESCRIBING THE DUTIES AND COMPENSATION OF THE STATE LIBRARIAN; AND AMENDING SECTION 810 OF THE REVISED STATUTES OF IDAHO," APPROVED FEBRUARY 10TH, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section two of an act entitled "An act to provide for the care, management, and maintenance, of the State library; prescribing the duties and compensation of the State Librarian; and amending section 810 of the Revised Statutes of Idaho," approved February 10th, 1899, be amended to read as follows:

Section 2. They shall appoint a Librarian, at a salary of \$900 per year, and such Librarian must keep the library open every day, except Sundays and legal holidays, while the Supreme Court and the Legislature, or either, may be in session from 9 o'clock A. M. until 9 o'clock P. M., and on all other days, except Sundays and legal holidays, from 9 o'clock A. M. until 5 o'clock P. M.

SEC. 2. Whereas an emergency exists therefor this Act shall take effect immediately upon its passage.

Filed, March 18th, 1899.

S. B. NO. 115

AN ACT

TO AMEND SECTION 1553 OF THE REVISED STATUTES OF IDAHO AS AMENDED BY AN ACT OF THE FIFTH SESSION OF THE LEGISLATURE APPROVED, FEBRUARY 16TH, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1553 of the Revised Statutes of the State of Idaho as amended by an act of the fifth session of the Legislature of the State of Idaho, approved February 16th, 1899, be amended to read as follows:

Section 1553. If the property is not redeemed within two years from sale the collector or his successor in office must make to the purchaser or his assignee upon demand by him a deed to the property reciting in the deed substantially the matters contained in the certificate; and that no per-

son redeemed the property during the time allowed by law for its redemption. The collector is entitled to receive from the purchaser two dollars for making such deed.

SEC. 2. Whereas an emergency exists, therefore this Act shall be in force from and after its passage.

Approved, March 14, 1899.

SENATE SUBSTITUTE FOR H. B. NO. 214.

AN ACT

TO AMEND SECTION 1642 OF THE REVISED STATUTES OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1642 of the Revised Statutes of the State of Idaho is hereby amended to read as follows:

Section 1642. Every auctioneer must obtain a license from the tax collector and must pay therefor five (\$5.00) dollars per month: *Provided*, That upon the payment of twenty dollars in advance an auctioneer may obtain from the tax collector an annual license, which annual license, shall date from the first day of March of each and every year.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved, February 28, 1899.

H. B. NO. 1.

AN ACT

CONCERNING THE DISPOSITION OF MINING INTERESTS OF DECEDENTS. AMENDING SECTIONS 5499-5503 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That sections 5499, 5500, 5501, 5502 and 5503 of the Revised Statutes of Idaho be amended to read as follows:

Section 5499. When the estate of any decedent consists, in whole or in part, of mines or interests in mines in this State, the same may be sold under the order of the probate court having jurisdiction of the estate.

When the decedent, at the time of his death, was not a citizen of this State, but had mining interests herein, the probate court of any county in this State, in which such mining interests are situated, may, upon a proper petition of an heir at law of such decedent, or of any of his co-owners or mining partners in any of said mining interests, or of any person having any interest in such mining properties, or in the estate, appoint an administrator, who shall give bonds as required by the court; that the probate court first acquiring jurisdiction has exclusive jurisdiction of the administration of all of decedent's mining interests in this State, and that after such appointment of an administrator of such non-resident decedent, creditors may present and prove their claims as in other cases, but within such time as the court may order.

The probate court may, when it shall appear that the decedent has no creditors in this State, or, when for other cause it shall seem best to the court, permit decedent's foreign administrator or representative to file certified copies of his letters or authority to represent the estate, and thereafter he has all the authority of an administrator appointed under the laws of this State.

Section 5500. In the administration of the estate of any decedent, the administrator, or other proper legal representative thereof, or any heir

at law, or creditor of the decedent, or any of his co-owners or mining partners in mines or mining interests, or any member of any mining partnership, or mining company in which shares or stocks were held by deceased, may file in the proper probate court a written petition describing the mine, interest, or shares which it is desired to sell, and the condition and situation of the mine or mining interests, or of the mining company in which such interests or shares are held, and the reasons why the sale is desired.

Section 5501. Upon the presentation of such petition, the probate judge must make an order directing all persons interested to appear before him at a time and place specified, not less than three nor more than eight weeks from the time of making such order, to show cause why an order should not be granted to the executor or administrator to sell such mines, mining interests, shares, or stocks, as are set forth in the petition and belonging to the estate. A copy of the order to show cause must be personally served on all persons interested in the estate, at least ten days before the time appointed for hearing the petition, or published at least three successive weeks in such newspaper as the court shall specify. If all persons interested in the estate, signify, in writing their assent to such sale, the notice may be dispensed with.

Section 5502. If, upon hearing the petition it appears to the satisfaction of the probate judge that it is to the interest of such estate that such mining property or interests of the estate should be sold, or if it appears to his satisfaction that an immediate sale is necessary in order to secure the just rights or interests of the mining partner, or tenants in common, such probate judge must make an order authorizing such administrator or other legal representative to sell such mines, mining interests or shares, and for that purpose, when necessary, to enter into written bonds or contracts with parties for the future sale upon such conditions and at such price as may be considered best, subject to the approval of said judge.

Section 5503. If the order is made for the sale of the property, such sale must be made and such proceeding had as are provided for in the sale of other real estate and property, but, if it be for the bonding or contracting for the sale thereof, the administrator or legal representative must be authorized to enter into a bond or contract for the sale, and, when necessary, to make and fully execute and place in escrow at some place approved by such judge, a proper deed of conveyance for the property. In any case the proceeds of the sale of the property shall be disposed of as other proceeds and assets of the estate; *Provided*, That when the decedent was not a citizen of this State, if no claims are established in the probate court in this State against the estate, such proceeds, in the absence of any proper objections by parties interested in such estate, must, upon the order of the probate court, be paid to the proper foreign administrator or representative or heir of the estate, or to parties entitled thereto as may be determined by the court, less the cost of the proceedings in the probate court in this State.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

Filed February 28, 1899.

H. B. NO. 3.
SUBSTITUTE FOR H. B. NO. 2.

AN ACT

TO PROVIDE FOR THE PAYMENT OF OFFICERS, MEMBERS, AND EMPLOYEES, AND FOR THE GENERAL EXPENSES OF THE FIFTH SESSION OF THE LEGISLATURE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, be and the same is hereby, appropriated out of any moneys in the general fund of the State treasury, not otherwise appropriated, for the purpose of paying the compensation due to the officers, members, and employees and for the general expenses of the fifth session of the Legislature of the State of Idaho.

SEC. 2. That the State Auditor is hereby authorized and required upon the presentation to him of the certificate of the presiding officer of the house of which the person therein named is a member, officer, or employee, that the party mentioned in the certificate is entitled to compensation to the amount therein stated to draw his warrant on the general fund for the amount so certified as due.

SEC. 3. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved, January 14, 1899.

H. B. NO. 176.

AN ACT

PROVIDING FOR THE ENFORCEMENT OF JUDGMENTS IN CRIMINAL ACTIONS, WHERE FINES AND COSTS ARE IMPOSED; CREATING A LIEN THEREFOR, AND PROVIDING FOR AN EXECUTION THEREON; DIRECTING THE APPORTIONMENT OF MONEYS ARISING FROM SUCH COSTS, AND FIXING THE GRADE OF CRIME FOR FAILURE TO PAY OVER THE SAME. AMENDING SECTIONS 6978, 7994, 7995 AND 8006, 8300, 8310, 8311, OF THE REVISED STATUTES OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section seven thousand nine hundred and ninety-four of the Revised Statutes of the State of Idaho be amended to read as follows: Section 7994. A judgment that the defendant pay a fine, or pay costs, or pay both fine and costs, may also direct that defendant be imprisoned until the fine, or costs, or both fine and costs have been satisfied; specifying the extent of the imprisonment, which cannot exceed one day for every two dollars of the fine, costs, or fine and costs, as the case may be.

SEC. 2. That section seven thousand nine hundred and ninety-five of the Revised Statutes of Idaho, be amended to read as follows: Section 7995. A judgment that the defendant pay a fine, pay costs, or pay fine and costs, constitutes a lien in like manner as a judgment for money in a civil action.

SEC. 3. That section eight thousand and six of the Revised Statutes of the State of Idaho be amended to read as follows: Section 8006. If the judgment is for the payment of a fine, or costs, or fine and costs, only, execution may be issued thereon as on a judgment in a civil action.

SEC. 4. All moneys arising from the satisfaction of any judgment for costs in a criminal action, or from an execution on any such judgment, shall be apportioned to the general expense fund of the year and of the county in which such judgment was entered.

SEC. 5. That section six thousand nine hundred and seventy-eight be amended to read as follows: Section 6978. If any clerk, justice of

the peace, sheriff, or constable who receives any fine, or forfeiture, or costs arising out of a judgment in a criminal action, refuses or neglects to pay over the same according to law, and within thirty days after the receipt thereof, such officer is guilty of a misdemeanor.

SEC. 6. That section 8300 of the Revised Statutes of Idaho be amended to read as follows: Section 8300. A judgment that the defendant pay a fine, or costs, or fine and costs, may also direct that the defendant be imprisoned until the fine, or costs, or both fine and costs, have been satisfied; specifying the extent of the imprisonment, which cannot exceed one day for every two dollars of the fine, costs, or fine and costs, as the case may be.

SEC. 7. That section 8310 of the Revised Statutes of Idaho be amended to read as follows: Section 8310. When a judgment is entered imposing a fine, or costs, or both fine and costs, or ordering the defendant to be imprisoned until the fine, or costs, or fine and costs be paid, he must be held in custody during the time specified in the judgment, unless the fine, or costs, or fine and costs are sooner paid.

SEC. 8. That section 8311 of the Revised Statutes of Idaho be amended to read as follows: Section 8311. Upon payment of the fine, costs, or fine and costs, the officer must discharge the defendant if he is not detained for any other legal cause.

SEC. 9. This Act shall take effect and be in force from and after its passage, an emergency existing therefor.

Approved, February 13, 1899.

SUBSTITUTE FOR H. B. NO. 183.

AN ACT

PROVIDING FOR THE APPROPRIATION AND DISTRIBUTION OF WATER; THE CONDEMNATION OF LANDS FOR CANALS, DITCHES AND CONDUITS; EMPOWERING THE BOARDS OF COUNTY COMMISSIONERS TO ESTABLISH A MAXIMUM RATE FOR THE USE OF WATER; AND REPEALING ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THE PROVISIONS OF THIS ACT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. A cubic foot of water per second of time shall be the legal standard for the measurement of water in this State.

SEC. 2. The right to the use of the waters of rivers, streams, lakes, springs, and of subterranean waters, may be acquired by appropriation.

SEC. 3. The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such purpose, the right ceases.

SEC. 4. As between appropriators, the first in time is first in right.

SEC. 5. A person desiring to appropriate water must post a notice in writing in a conspicuous place at or near the point of intended diversion, stating therein:

FIRST. That he claims the water there flowing, to the extent of (giving the number of cubic feet per second of time) and accurately describing the point of intended diversion by giving the legal subdivisions of the land, if on surveyed land, or in reference to some natural land mark, if on unsurveyed land, making it sufficiently definite for a person acquainted with the country to find the point from the description in the notice.

SECOND. The purpose or purposes for which he claims the water and the place or locality of its intended use.

THIRD. The general course, length and destination of the conduit by

which he proposes to divert said water, and if for irrigation purposes, the general description and area of the land proposed to be irrigated by said conduit.

FOURTH. A copy of the notice must, within fifteen days after it is posted, be recorded in the office of the recorder of the county in which it is posted; and a duplicate copy thereof sent to the State Engineer for filing in his office.

SEC. 6. Within sixty days after the notice is posted, the claimant must commence the excavation or construction of the works by which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted by snow, rain or cold weather.

SEC. 7. By completion, it is meant conducting the waters to the place of intended use.

SEC. 8. By compliance with the above rules, the claimant's right to the use of water relates back to the time the notice was posted; and all land which is susceptible of irrigation from any ditch, canal or conduit shall be entitled to the use of water from the same to the full extent of the perfection of such water appropriation, upon the payment of such annual charges as may be determined under the provisions of this Act.

SEC. 9. A failure to comply with such rules deprives the claimant of the right to the use of the water as against a subsequent claimant who complied therewith, except as provided in the next section.

SEC. 10. All ditches, canals, or other works heretofore made, constructed, or provided, by means of which the waters of any stream have been diverted and applied to any beneficial use, must be taken to have secured the right to the waters claimed to the extent of the quantity which said works are capable of conducting, and not exceeding the quantity claimed without regard to, or compliance with, the requirements of this Act; and such person, company, or corporation, owners of any such ditch, flume or other conduit, cannot lawfully deny to any other person, company or corporation the right to cross their right of way with other ditch, flume or conduit either upon a higher or lower level, where the same can be done in a convenient and safe manner: *Provided*, That such second person, company or corporation shall be liable for all damages that may accrue from the construction of such ditch, flume, or other conduit across the conduit of another.

SEC. 11. The person entitled to the use of water may change the place of diversion, if others are not injured by such change; and may extend the conduit by which the diversion is made to places beyond that where the first was made.

SEC. 12. The phrase "domestic purposes" as contained in this Act shall be construed to include water for the household, and a sufficient amount for the use of domestic animals kept with and for the use of the household. All persons or corporations owning or claiming any water right or water rights must, within six months after this Act becomes a law, record with the recorder of the county a notice of the amount of the claim of appropriation, location and specific use, and the date of such appropriation.

SEC. 13. The right of way over and upon any and all lands owned or controlled by the State of Idaho is hereby granted to any and all persons

for the purpose of constructing and maintaining any ditch, canal, conduit or other works for the diversion or carrying of water for any beneficial use. *Provided*, that no property shall be taken under the provisions of this section until a just compensation shall be paid therefor, to be ascertained in the manner prescribed by law for the taking of private property for a public use.

SEC. 14. In case of the refusal of the owners or claimants of any lands, through which any ditch, canal or conduit is proposed to be made or constructed, to allow passage thereof, the person or persons desiring the right of way may proceed as in law of eminent domain.

SEC. 15. That every person, company or corporation owning or controlling any ditch, canal or conduit for the purpose of irrigation shall, during the time from April 1st to the first day of November of each year keep a flow of water therein, sufficient to the requirements of such persons as are properly entitled to the use of water therefrom: *Provided, however*, That when the public streams or other natural water sources from which the water is obtained is too low and inadequate for that purpose, then such ditch, canal or conduit shall be kept with as full a flow of water therein as may be practicable, subject, however, to the rights of priority from the streams or other natural sources as provided by law.

SEC. 16. The owners or persons in control of any ditch, canal or conduit used for irrigating purposes shall maintain the same in good order and repair, ready to deliver water by the first of April in each year, and shall construct the necessary outlets in the banks of the ditches, canals or conduits for a proper delivery of water to persons having rights to the use of the water.

SEC. 17. It shall be the duty of those owning or controlling any ditch, canal or conduit to appoint a superintendent, or watermaster, whose duty it shall be to measure the water from such ditch, canal or conduit through the outlets of those entitled thereto, according to his or her pro rata share.

SEC. 18. Any superintendent or any person having control or charge of the said ditch, canal or conduit who shall willfully neglect or refuse to deliver water as in this Act provided, or person or persons who shall prevent or interfere with the proper delivery of water to the person or persons having a right thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars, nor more than one hundred dollars for each offense; and the money thus collected shall be paid into the school fund of the county in which the misdemeanor has been committed; and the owner or owners of such ditch, canal or conduit shall be liable in damages to the person or persons deprived of the use of water to which they were entitled as herein provided.

SEC. 19. Any person, company or corporation owning or controlling any canal or irrigation works for the distribution of water under a sale or rental thereof shall furnish water to any person or persons owning or controlling any land under such canal or irrigation works for the purpose of irrigating such land or for domestic purposes, upon a proper demand being made and reasonable security being given for the payment thereof: *Provided*, That no person, company or corporation shall contract to deliver more water than such person, company or corporation

has a title to by reason of having complied with the laws in regard to the appropriation of the public waters of this State.

SEC. 20. Any person or persons owning or controlling land which has or has not been irrigated from any such canal, shall on or before January 1st of any year, inform the owner or person in control of such canal whether or not he desires the water from said canal for the irrigation of land during the succeeding season, stating also the quantity of water needed. In distributing water from any such canal, ditch or conduit during any season preference shall be given to those applications for water for land irrigated from said canal the preceding season, and a surplus of water, if any there be, shall be distributed to the lands in the numerical order of the applications for it. But no demand for the purchase of a so called "perpetual water right" or any contract fixing the annual charges or the quantity of water to be used per acre shall be imposed as a condition precedent to the delivery of water annually as provided in this Act; but the consumer of water shall be the judge of the amount and the duty of the water required for the irrigation of his land; and the annual charges to be made and to be fixed under the further provisions of this Act, shall hereafter be based upon the quantity of water delivered to consumers, and shall not in any case depend upon the number of acres irrigated by means of such amount of water delivered.

SEC. 21. It shall be the duty of the State Engineer to devise a simple, uniform system for the measurement and distribution of water.

SEC. 22. That the owner or owners of any irrigating ditch, canal or conduit shall carefully keep and maintain the embankments thereof in good repair, in order to prevent the water from wasting during the irrigation season, and shall not at any time permit a greater quantity of water to be turned into said ditch, canal or conduit than the banks thereof will easily contain or can be used for beneficial or useful purposes; it being the meaning of this section to prevent the wasting and useless discharge and running away of water.

SEC. 23. That all ditches now constructed or which may hereafter be constructed for the purpose of utilizing seepage, waste or spring water of the State, shall be governed by the same laws relating to priority of right as those ditches, canals, and conduits constructed for the purpose of utilizing the waters of running streams.

SEC. 24. That all persons, companies, corporations or community of persons who have heretofore, or who may hereafter divert water for irrigation or other beneficial purposes from any of the public streams or other natural water sources, shall erect and maintain in good order suitable and substantial headgates and measuring devices in connection therewith. And in case of failure or neglect or refusal so to do after five days' notice has been given by the board of county commissioners, then said headgates and measuring devices or waste-gates shall be constructed by the board of county commissioners of the county of which said headgates, measuring devices, and waste gates are required to be constructed. And if on demand by the said commissioners, the owner or owners of any such ditch, canal or conduit, or other water works upon which said headgates and measuring devices have been so constructed, shall refuse to pay the reasonable expenses thereof, then the said board of county commissioners shall bring suit before any court having competent jurisdiction in the manner of recovery of money for debt.

SECTION 25. That all owners of any ditch, canal, or conduit, or any other means for conveying water, shall build substantial bridges not less than sixteen feet wide, and with boards not less than two inches in thickness unless the same shall be on a county or State road, then such boards shall not be less than three inches thick, at all places where any county or State road crosses the same, or any road kept open and used by any neighborhood of people for their benefit and convenience. In case of neglect or refusal of such owners to build such bridges as above required after a notice of ten days being given by the said board of county commissioners of the proper county, said board shall proceed to the construction of the same and collect the cost thereof together with the costs of suit. *Provided*, That after said bridge shall have been constructed across any county or State road in accordance with the provisions of this section it shall thereafter be maintained at the public expense.

SEC. 26. That the county commissioners of each county now organized, and of each county to be hereafter organized in this State shall, at their regular session in January of each year and at such other sessions as they, in their discretion may deem proper, hear and consider all applications which may be made to them by any party or parties interested in either furnishing or delivering for compensation, or by any person or persons using or consuming water for irrigation or other beneficial purpose or purposes from any ditch, canal or conduit, the whole or any part of which shall be in such county, which application shall be supported by such affidavit as the applicant or applicants may present, showing reasonable cause for such board of county commissioners to proceed to fix a maximum rate of compensation for water thereafter delivered from such ditch, canal or conduit within such county: *Provided*, That when any ditch, canal or conduit shall extend into two or more counties, the county commissioners of each of such counties shall fix the maximum rate for water used in that county.

SEC. 27. That every such board of county commissioners shall, upon examination of such affidavit or affidavits, or from the oaths of witnesses thereto, if they find that the facts sworn to show the application to be in good faith, and that there are reasonable grounds to believe that unjust rates of compensation are, or are likely to be, charged or demanded for water from such ditch, canal or conduit, enter an order fixing a day not sooner than ten days thereafter, nor later than twenty days, (a special meeting may be called for that purpose) when they will hear all parties interested in such water works aforesaid, or in procuring water therefrom, for any of the said purposes as well as all documentary or oral evidence or deposition taken according to law, touching said ditch or other water works aforesaid, and the cost of furnishing water therefrom.

SEC. 28. That at the time so fixed all persons as aforesaid on either side of the controversy in lands which may be irrigated by such ditch or other water works aforesaid, may appear by themselves or by their agents or attorneys, and said commissioners shall then proceed to take action in the matter of fixing such rates of compensation for the delivery of water: *Provided*, The applicant or applicants, if the application be made by a party or parties as aforesaid desirous of procuring water, shall within ten days from the time of entering the said order fixing the hearing, cause a copy of such order, duly certified, to be delivered to the owner or owners of such ditch, canal or conduit, or to the president, secretary, or agent of

the company, if it be owned by a corporation or association having such officers; if any such owner cannot be found, a copy shall be left at the usual place of business of the company of which he is such officer, or at his residence if such company have no place of business. And if such ditch or water works aforesaid shall be owned by several owners, not being an incorporated company, it shall be sufficient to serve such notice by delivering a copy to a majority of them. If the applicant be the owner or party controlling such ditch, canal or conduit, such notice shall be given by causing printed copies of such order in hand bill form, in conspicuous type, to be posted securely in ten or more places throughout the county and section watered by such ditch or other water works aforesaid, if the water be used for irrigation. The person or persons making such services or posting such printed copies shall make affidavit of the manner in which the same has been done, which affidavit shall be filed with the board of county commissioners. Depositions mentioned in section 27 hereof to be used before said commissioners shall be taken by any officer in the State authorized by law to take depositions, upon reasonable notice being given to the opposite party of the time and place of taking the same.

SEC. 29. Said board of commissioners may adjourn or postpone any hearing from time to time as may be found necessary; but when in session they shall hear and examine all legal testimony or proofs offered by any party interested as aforesaid, as well as concerning the original cost and present value of the works and structure of such ditch, canal or conduit, as well as the cost and expense of maintaining and operating the same, and all matters which may affect the establishment of reasonable maximum rates for water to be furnished and delivered therefrom, and they may issue subpoenas for witnesses, which subpoenas shall be served in the same manner in which subpoenas are served in civil cases; and said board may also issue subpoenas for the production of all books and papers required before them. The district court of the proper county, or the judge thereof in vacation, may in case of refusal to obey the subpoenas of the board of county commissioners, compel obedience thereto, or punish for refusal to obey after hearing, as in cases of attachment for contempt of such district court. Upon hearing and considering all the evidence and facts and matters involved in the case, said board of county commissioners shall enter an order describing the ditch, canal or conduit, or other water works in question with sufficient certainty, and fixing a just and reasonable maximum rate of compensation for water thereafter delivered from such ditch or other water works as last aforesaid within the county in which such commissioners act; and such rate shall not be changed within one year from the time when such rates shall be so fixed. *Provided*, That an appeal or writ of error shall be in behalf of the proprietor of such works, or any person using or claiming to be entitled to use water therefrom, for review in the district court.

SEC. 30. In fixing the rates at which water shall be furnished, the board of commissioners shall take into consideration the cost of the works, the expense of keeping the same in repair, and all other conditions that affect the cost to deliver the same. Whenever it shall appear to the board of county commissioners from competent evidence that any consumer or consumers of water distributed through any ditch or canal, is entitled to the distribution or use of any water therefrom, at not to exceed a proportionate amount of the actual cost of maintenance and operation of

said ditch or canal, they shall, upon request of such person or persons so entitled, fix the rate per cubic foot per second to be charged to such consumer or consumers, for the current year.

SEC. 31. That any person or persons interfering with or damaging any ditch, canal or conduit, or any other works whereby water is conducted to any place for beneficial purposes, or any approaches or appurtenances thereto, shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined in any sum not exceeding three hundred dollars, or by imprisonment in the county jail not exceeding twelve months, or by both such fine and imprisonment.

SEC. 32. The proprietors of any ditch, canal or conduit, or other works for the carriage of water, whose right relative to the quantity of water they shall be entitled to divert by means of such works shall have been established by any decree of the court, shall be entitled to divert such quantity measured at the point of diversion, subject, however, to all prior rights.

SEC. 33. In order to the proper and certain ascertainment and distribution of the amount of water appropriated by means of any community ditch, conduit or other works for the diversion or carriage of water, and to provide for the proper distribution of the same according to the several rights of the parties entitled to the use thereof, it shall be the duty of the board of county commissioners of the proper county, upon the application of any one or more appropriators of water, using the same community ditch or conduit to cause to be placed at the expense of the owners of said community ditch or conduit at the point or points of said intended use or diversion, a headgate with measuring weir or device so that each and every one of said appropriators may know how much water is flowing, not only through the headgate of said canal, ditch or conduit, but also how much water is flowing in and through said ditch upon the land of the several appropriators using the same community ditch, canal or conduit.

SEC. 34. The boards of county commissioners of the respective counties of this State are hereby created boards of water commissioners, with power to enforce the provisions of this Act, and for the better discharge of their duties they shall have authority to make such other regulations to secure the equal and fair distribution of water in accordance with the rights of priority of appropriation as may in their judgment be needed in their respective counties: *Provided*, Such regulations shall not be in violation of any part of this Act, or other laws of the State, but merely supplementary to and necessary to enforce the provisions of this Act and general laws on the subject of irrigation.

SEC. 35. It shall be the duty of any corporation owning or controlling any canal or irrigation works for the distribution of water under a sale or rental thereof in this State, to file before the first Monday in January in each year in the office of the county recorder of every county in which said company distributes water under such sale or rental upon a blank form to be prepared and furnished by him upon application, and a duplicate copy thereof with the State Engineer, a statement showing the condition of the business of said corporation on December 31st, of the preceding year, which statement shall include the following:

FIRST. A general description of the property of the company.

SECOND. A statement of its costs and estimated present value.

THIRD. The total amount and the character of all indebtedness of the company, including a list of all perpetual water rights sold and out-

standing and their respective dates of execution, and the amount received from such sales.

FOURTH. The amount due to said company and from what sources.

FIFTH. The income of the company during the preceding calendar year and from what sources.

SIXTH. The expenditures by the company during the same period and for what purposes.

SEVENTH. The total area of land watered from its works during the preceding season; that part of said area having no water rights attached being given separately.

EIGHTH. The number of acres of land under said ditch susceptible of irrigation.

NINTH. The capacity of its works and the quantity of water carried during the said season as nearly as known.

TENTH. The amounts of recorded appropriations and the date of each. Said statement shall be sworn to by the proper official of said corporation. If the proper official, or principal accounting officer of said corporation shall neglect or refuse to file the statement herein required, the said recorder shall notify him of such failure, and if for thirty days after said notification he still neglects or refuses to file such statement, he shall be guilty of a misdemeanor, and shall be subject to a fine of not exceeding three hundred dollars, or to imprisonment in the county jail of his county for not more than six months, or by both such fine and imprisonment. Said statement required to be filed under this section shall be kept on file in the office of said recorder and shall be open to inspection.

SEC. 36. It shall be the duty of the county surveyor, when so ordered by the board of county commissioners, to make or cause to be made careful measurements and ascertain the carrying capacity of any or all ditches, canals, or feeders within his county, and shall issue certificates of all ditches, canals, or feeders so measured: *Provided*, That said measurements shall be made under the supervision of the State Engineer.

SEC. 37. The county surveyor and his deputies shall receive such compensation for making such measurements, as may be allowed by the board of county commissioners upon a showing made by the surveyor or his deputies of the time occupied and the expense incurred by him or them in making such measurements, and said board shall have authority and it shall be its duty to apportion said expenses between the several owners of ditches so measured within such county.

SEC. 38. That all acts or parts of acts in conflict with the provisions of this Act are hereby repealed.

SEC. 39. Whereas an emergency exists, therefore this Act shall be in force from and after its passage and approval by the Governor.

Approved February 25th, 1899.

H. B. NO. 184.

AN ACT

TO INSURE THE BETTER QUALIFICATION OF PRACTITIONERS OF DENTAL SURGERY, AND TO REGULATE THE PRACTICE OF DENTISTRY IN THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It shall be unlawful for any person who is not at the time of the passage of this Act engaged in the practice of dentistry in this State,

to commence such practice unless he or she shall have obtained a certificate as hereinafter provided.

SEC. 2. A Board of Examiners to consist of five practicing dentists of known skill and ability, is hereby created, whose duty it shall be to carry out the purposes and enforce the provisions of this Act. The members of said Board shall be appointed by the Governor from the dental profession of the State. The term for which the members of said Board shall hold their offices shall be three years respectively, and until their successors shall be duly appointed and qualified. Of the first Board to be appointed two shall hold office for one year, two for two years and one for three years. The term for which each shall serve to be decided by lot. In case of a vacancy occurring in said Board, such vacancy shall be filled by the Governor in conformity with this section.

SEC. 3. Said Board shall choose one of its members president, and one secretary thereof, and it shall meet at least once in each year and as much oftener at such places as may be deemed necessary. A majority of said Board, shall at all times, constitute a quorum, and the proceedings thereof shall be open to public inspection.

SEC. 4. Within three months after the time this Act takes effect, it shall be the duty of every person who is now engaged in the practice of dentistry in this State, to cause his or her name and residence or place of business to be registered with the said Board of Examiners, who shall keep a book for that purpose. The statement of every such person shall be verified under oath before a notary public, or justice of the peace. Every person who shall so register with said Board as a practitioner of dentistry, shall receive a certificate to that effect, and may continue to practice as such without incurring any of the liabilities or penalties provided in this Act, and shall pay to the Board of Examiners for each registration, the fee of two dollars.

It shall be the duty of the Board of Examiners to forward to the county clerk of each county in the State, a certified list of the names of all persons residing in his county, who have registered in accordance with the provisions of this Act. And it shall be the duty of all county clerks to register such names in a book kept for that purpose.

SEC. 5. Any and all persons who shall desire to appear before said Board of Examiners for examination shall have had three years' experience in a dental office, which fact shall be established by oath before a notary public, possess a certificate from some other State Board, or diploma from some legally authorized dental college. If the examination of said person or persons shall prove satisfactory to said Board, the Board of Examiners shall issue to such persons as they shall find to possess the requisite qualifications, a certificate to that effect, in accordance with the provisions of this Act. Said Board shall also require the holder of diploma to furnish satisfactory evidence of his or her right to the same, and shall issue certificates to those whose examinations shall prove satisfactory to said Board of Examiners, within ten days thereafter. All certificates issued by said Board shall be signed by the officers and shall be *prima facie* evidence of the right of the holder to practice dentistry in the State of Idaho.

SEC. 6. Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars, nor more than two hundred dol-

lars. All fines recovered under this Act shall be paid into the common school fund of the county in which such conviction takes place.

SEC. 7. In order to provide the means for carrying out and maintaining the provisions of this Act, the Board of Examiners shall charge each person applying to or appearing before them for examination for a certificate of qualifications, a fee of twenty-five dollars, which fee shall be in no case returned, but said applicant may take second examination at the next meeting of the said Board, should the applicant be rejected. Out of funds coming into possession of the Board from fees so charged, and penalties received under the provisions of this Act, all legitimate and necessary expenses incurred in attending to the meetings of such Board, shall be paid, and no part of the expenses of the Board shall ever be paid out of the State treasury. All moneys received in excess of expenses above provided for shall be held by the secretary of said Board as a special fund for meeting the expenses of said Board and carrying out the provisions of this Act, he giving such bond as the Board shall from time to time direct; and said Board shall make an annual report of its proceedings to the Governor by December 1st, of each year, together with an account of all moneys received and disbursed by them, pursuant to this Act.

SEC. 8. Any person who shall receive a certificate from said Board to practice dentistry, shall cause his or her certificate to be registered with the county clerk of each and every county in which such person shall practice, and the county clerk shall charge for registering such certificate, a fee of one dollar. Any neglect, failure or refusal on the part of any person holding such certificate to register the same with the county clerk, as above directed, for a period of three months, shall work a forfeiture of the certificate, and no certificate, when once forfeited, shall be restored, except upon payment to the Board of twenty-five dollars as a penalty of such neglect, failure or refusal.

SEC. 9. Any person who shall, knowingly or falsely, claim or pretend to hold a certificate or license granted by this Board under and pursuant to the provisions of this Act, or who shall falsely, with intent to deceive the public, claim or pretend to have same, shall be deemed guilty of a misdemeanor and shall be liable to the same penalty as provided in section 6.

SEC. 10. Nothing in this Act shall be so construed as to prevent any practicing physician from extracting teeth.

SEC. 11. Whereas an emergency exists this Act shall take effect immediately after its passage.

Approved, February 16, 1899.

H. B. NO. 185.

AN ACT

TO PROHIBIT GAMBLING AND TO PROVIDE FOR THE PUNISHMENT THEREOF AND FOR OTHER PURPOSES.

Be it enacted by the Legislature of the State of Idaho:

SECTION I. Every person who deals, plays or carries on, opens or causes to be opened, or who conducts, either as owner, employee, or lessee; whether for hire or not, any game of faro, monte, roulette, lausquenet, rouge et noir, rondo, or any game played with cards, dice, or any other device, for money, checks, credit or any other representative of values, is guilty of a misdemeanor and is punishable by fine not less than two hun-

dred dollars or imprisonment in the county jail not less than four months.

SEC. II. Every person who knowingly permits any of the games prohibited by the preceding section to be played, conducted, or dealt in any house owned or rented by such person, in whole or in part, is punishable as provided in the preceding section.

SEC. III. Every person who, by any practice, cheat, or device, or false pretense whatsoever, while playing at any game of chance, or while bearing any share in wagers played for, or while betting on sides or hands of such playing, wins or acquires to himself or another any sum of money or anything of value or representative of value, is guilty of a misdemeanor.

SEC. IV. Whenever any judge or justice of the peace shall have knowledge or shall receive satisfactory information, that there is any gambling table or gambling device, adopted or devised and designed for the purpose of playing any of the games of chance prohibited in section I of this Act, within his district or county, it shall be his duty to forthwith issue his warrant, directed to the sheriff or constable, to seize and bring before him such gambling table or other device, and cause the same to be publicly destroyed, by burning or otherwise.

SEC. V. The officer who shall be charged with the execution of any warrant specified in section IV of this Act, shall have like power of execution thereof, as is provided in cases of search warrants.

SEC. VI. Every person duly summoned as a witness for the prosecution, on any proceedings had under this chapter, who neglects or refuses to attend, as required, is guilty of a misdemeanor.

SEC. VII. No person otherwise competent as a witness, is disqualified from testifying as such concerning the offense of gambling, on the ground that such testimony may criminate himself; but, no prosecution can afterwards be had against him for any offense concerning which he testified.

SEC. VIII. Every prosecuting or county attorney, sheriff, constable or police officer, must inform against and diligently prosecute persons whom they have reasonable cause to believe offenders against the provisions of this Act, and every such officer refusing or neglecting so to do is guilty of a misdemeanor.

SEC. IX. All acts, or parts of act, inconsistent with the provisions of this Act, are hereby repealed.

Approved, February 6th, 1899.

H. B. NO. 186.

AN ACT

TO COMPENSATE HENRY Z. JOHNSON, CHAS. S. KINGSLEY AND PHILETUS AVERITT FOR SERVICES IN PREPARING LAWS FOR RE-ENACTMENT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the sum of twelve hundred dollars be, and the same is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, for the payment of Henry Z. Johnson, Charles S. Kingsley and Philetus Averitt for services in preparing for re-enactment at the fifth session of the Legislature of the State of Idaho, the existing statute law of the State enacted at the four sessions of the Legislature since the admission of said State into the Union.

SEC. 2. That the State Auditor be, and he is hereby directed and required to draw his warrants on the State Treasurer for the sums, respect-

ively, of four hundred dollars in favor of Henry Z. Johnson; four hundred dollars in favor of Charles S. Kingsley; and four hundred dollars in favor of Philetus Averitt; and the State Treasurer is hereby authorized and required to pay said warrants out of any moneys in the State treasury not otherwise appropriated.

SEC. 3. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved, March 2, 1899.

H. B. NO. 191.

AN ACT

TO REPEAL AN ACT ENTITLED "AN ACT TO ESTABLISH A REFORM SCHOOL AT MOUNTAIN HOME, IN THE COUNTY OF ELMORE, AND TO CREATE A BOARD OF TRUSTEES FOR THE MANAGEMENT THEREOF," APPROVED MARCH 6. 1893.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That an act of the third session of the Legislature of the State of Idaho, entitled, "An Act to establish a reform school at Mountain Home, in the County of Elmore, and to create a board of trustees for the management thereof," is hereby repealed.

SEC. 2. That all rights accrued to, all donations made for, and all property vested by virtue of said act, shall revert back to the original owners thereof, as fully and completely as if the same had never passed, and the board of trustees of said reform school are hereby authorized and directed to execute deeds of conveyance of all real estate to the respective donors or grantors who have heretofore donated or granted lands or real estate to said board of trustees for the use and benefit of said reform school.

Approved, March 9, 1899.

H. B. No. 195.

AN ACT

TO APPROPRIATE MONEY FOR THE COSTS AND EXPENSES INCURRED IN RAISING, MOBILIZING AND MAINTAINING IDAHO VOLUNTEERS DURING THE INTERVAL BETWEEN THEIR ENROLLMENT (ENLISTMENT) AND THEIR MUSTER INTO THE SERVICE OF THE UNITED STATES, AND TO AUTHORIZE THE GOVERNOR TO FORWARD CLAIMS OF THE STATE TO THE SECRETARY OF THE TREASURY, AND UPON THE RECEIPT OF MONEY FROM THE TREASURY DEPARTMENT, TO TURN THE SAME INTO THE GENERAL FUND OF THE STATE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the sum of fifteen thousand one hundred and fifty-nine dollars and sixty-three cents (\$15,159.63) is hereby appropriated out of any moneys in the general fund of the State treasury, not otherwise appropriated, for the purpose of paying the costs and expenses incurred in raising, mobilizing and maintaining Idaho volunteers during the interval between their enrollment (enlistment) and their muster into the service of the United States.

SEC. 2. That the sum of five hundred dollars (\$500.00) or so much thereof as may be necessary is hereby appropriated to pay any claims against the State caused in connection with the purposes named in section one of this Act, that have not been presented and audited, upon presentation to the State Auditor of vouchers properly signed by the Board of Examiners and certified to by the proper department staff officers.

SEC. 3. The State Treasurer is hereby authorized and directed to pay the said claims upon a warrant therefor by the State Auditor upon bill approved by the State Board of Examiners.

SEC. 4. The Governor of the State is hereby authorized to immediately forward the claims of the State to the Secretary of the Treasury for reimbursement and settlement, and upon receipt of the money from the Treasury Department at Washington, he is authorized to turn the same into the general fund of the State.

SEC. 5. Whereas an emergency exists therefore this Act shall take effect and be in force from and after its passage.

Approved, February 7, 1899.

H. B. NO. 197.

AN ACT

TO AMEND SECTION 2 OF AN ACT ENTITLED "AN ACT TO ESTABLISH THE UNIVERSITY OF IDAHO."

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section two of an act entitled, "An act to establish the University of Idaho" be amended to read as follows:

Section 2. The government of the University shall vest in a Board of Regents to consist of nine members chosen from the State at large, which Board the Governor shall nominate, and with advice and consent of the Senate, appoint. The term of office of said Regents shall be six years from the first Monday in February in the year in which appointed. *Provided*, That the Regents appointed in the year 1899 shall hold their offices during the following periods: Three shall be appointed for a term of two years, three shall be appointed for a term of four years, and three shall be appointed for a term of six years. The Governor shall have power to fill vacancies in the Board by appointment, which appointment shall be valid until the last day of the regular session of the Legislature following such appointment.

SEC. 2. Whereas, an emergency exists, this Act shall take effect from and after its passage and approval.

Approved, February 28, 1899.

H. B. NO. 199.

AN ACT

PROVIDING FOR COLLECTION OF ROAD POLL TAXES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Every road overseer is hereby authorized to demand payment of road poll tax from every person liable therefor, and on the refusal of such person to work or pay the same, he must collect by seizure and sale of any personal property owned by such person. The sale may be made after five days notice of time and place of such seizure and sale.

SEC. 2. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved, February 16, 1899.

H. B. NO. 219.

AN ACT

REGULATING THE MANUFACTURE AND SALE OF IMITATION BUTTER, AND PRESCRIBING RULES FOR MAKING SAME, AND FIXING PENALTIES FOR VIOLATING THE PROVISIONS OF THIS ACT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That for the purpose of this Act, every article, substitute,

or compound. other than that which is procured from pure milk or cream therefrom, made in the semblance of butter, and designed to be used as a substitute for butter made from pure milk or its cream, is hereby declared to be imitation butter.

Provided, That the use of salt and harmless coloring matter, for coloring the product of pure milk or cream, shall not be construed to render such product an imitation.

SEC. 2. No persons shall coat, powder, or color with annatto or any coloring matter whatever, any substance designed as a substitute for butter, whereby such substitute or products so colored or compounded shall be made to resemble butter, the product of the dairy.

No person shall combine any animal fat or vegetable oil or other substance with butter or combine therewith, or with animal fat, or vegetable oil, or combination of the two, or with either one, or other substance, or substances, for the purpose or with the effect of imparting thereto, a yellow color or any shade of yellow, so that such substitute shall resemble yellow or any shade of genuine yellow butter; nor introduce any such coloring matter or such substance or substances, into any of the articles of which the same is composed;

Provided, Nothing in this Act shall be construed to prohibit the use of salt, rennet or harmless coloring matter for coloring the products of pure milk, or cream from the same.

No person shall, by himself, his agent or employees, produce or manufacture any substance in imitation or semblance of natural butter; nor sell, or keep for sale, nor offer for sale, any imitation butter; made or manufactured, compounded or produced in violation of this section, whether such imitation butter shall be made or produced in this State or elsewhere.

This section shall not be construed to prohibit the manufacture and sale, under the regulations hereinafter provided, of substances designed to be used as a substitute for butter, and not manufactured or colored as herein prohibited.

SEC. 3. Every person who lawfully manufactures any substance designed to be used as a substitute for butter, shall mark, by branding, stamping or stenciling upon the top and side of each tub, firkin, box or other package in which said article shall be kept, and in which it shall be removed from the place where it is produced, in a clear and durable manner, in the English language, the word "Oleomargarine," or the word "Butterine," or the words "Substitute for Butter," or the words "Imitation Butter," in printed letters in plain, Roman type each of which shall not be less than three-quarters of an inch in length.

SEC. 4. It shall be unlawful to sell or offer for sale any imitation butter without informing the purchaser thereof, or the person or persons to whom the same is offered for sale, that the substance sold or offered for sale is imitation butter.

SEC. 5. Any person or persons violating any of the provisions of this Act shall be deemed guilty of a misdemeanor.

Approved, March 6, 1899.

H. B. NO. 221.

AN ACT

FIXING ATTORNEYS' FEES IN SUITS FOR WAGES, WHEN ALLOWED, AND AMOUNT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever a mechanic, artisan, miner, laborer, servant, or employee, shall have cause to bring suit for wages earned and due, according to the terms of his employment, and shall establish by the decision of the court or verdict of the jury, that the amount for which he has brought suit is justly due, and that a demand has been made in writing, at least fifteen days before suit was brought, for a sum not to exceed the amount so found due; then it shall be the duty of the court, before which the case shall be tried, to allow to the plaintiff a reasonable attorney's fee, in addition to the amount found due for wages, to be taxed as costs of suit. In a justice's court, such attorney's fee shall not be more than five dollars, and in the district court, not more than ten dollars, except in cases on appeal from justice's court, when the plaintiff may recover an attorney's fee not exceeding twenty-five dollars.

SEC. 2. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after the time of its passage.

Approved, Feb. 16, 1899.

H. B. NO. 225.

AN ACT

ESTABLISHING A BUREAU OF IMMIGRATION, LABOR AND STATISTICS FOR THE STATE OF IDAHO; PROVIDING FOR THE APPOINTMENT OF A COMMISSIONER OF SAID BUREAU, FIXING THE SALARY, AND DEFINING THE DUTIES OF SAID COMMISSIONER.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. In conformity with the requirements of section 1, article 13 of the Constitution of the State of Idaho, a Bureau of Immigration, Labor and Statistics for the State is hereby established.

SEC. 2. It shall be the duty of the Governor, by and with the consent of the Senate, to appoint immediately after the passage of this Act a competent person as Commissioner of Immigration, Labor and Statistics, who shall have charge of said bureau, and who shall hold his office for the term provided in said article 13 of the Constitution. He shall receive a salary of \$1800.00 per year, and all necessary traveling expenses not exceeding \$600.00 per annum while traveling in the discharge of his official duties, to be paid as is the salary and fees of other State officers. Before entering upon the duties of his office, he shall take oath for the faithful discharge of the duties thereof, the same as other State officers. The Secretary of State shall provide suitable room for the use of said Bureau, and furnish the necessary fuel, light and appurtenances. All books, papers and documents in the office of said commissioner shall be deemed public records of the State and shall be transferred by him to his successor in office.

SEC. 3. It shall be, and is hereby made, the duty of said Commissioner to collect and compile all reliable data and information at his command, concerning the climate, soil and various resources of the State; its agricultural, horticultural, mineral, timber and grazing lands, and industries, and the development thereof; the water courses and lakes of the State in reference to irrigation, manufacturing, mechanical and other uses; the various crop products, and the adaptability of different soils, and localities

for the production of different crops; the number, kinds and value of domestic animals in the State, with the useful information regarding the same; the number of public schools, educational institutions, churches, charitable and fraternal organizations; health and pleasure resorts, and health statistics of the State; the number and mileage of railroads and other transportation lines; the number and capacity of irrigation canals and the lands covered by the same; the number and location of newspapers and periodicals in the State; the amount of public and school lands, and that belonging to various public institutions of the State; the wages and hours of labor, both skilled and common, and its relation to capital; and, generally, any information, which, if disseminated abroad, would tend to the development of the State by inducing population and capital within its borders. Said Commissioner shall also inform himself in regard to suitable locations for agricultural and horticultural colonies in the State, and use all facilities at his command for encouraging and promoting desirable enterprises of this kind. To this end, he shall endeavor to secure low rates of transportation favorable to immigrants by urging the co-operation of railroads and other corporations interested in the settlement of the State. He shall also open correspondence with, and answer any and all inquiries from those seeking information in regard to the resources of the State.

SEC. 4. In order to enable said Commissioner to secure the above required information, he is hereby clothed with the power to call upon officers of State, county assessors, superintendents of public instruction, and other officers, for such information as he may desire and deem valuable in his department.

SEC. 5. It shall be the duty of the Commissioner to keep in his office for exhibit such samples of the productions of the State, including grains, grasses, fruits, vegetables, minerals, manufactured articles and other products, as may be contributed by towns and counties, without expense to the State, the same to be arranged so that each town or county shall receive due credit therefor. He shall, whenever practicable, organize and encourage local exhibits at such points as would tend to advertise the resources of the State, and, whenever funds are available for such purposes, shall also make, or cause to be made, exhibits of the products and industries of the State, at such industrial and international exhibitions in other States, as the Governor shall direct.

SEC. 6. Said Commissioner shall cause to be printed and distributed such pamphlets, circulars, cards and maps, and to publish, from time to time, through the public press, such information as, in the judgment of said Commissioner, would tend to carry out the objects sought by this Act, and result in the largest possible benefit to the State.

SEC. 7. Said Commissioner shall receive the salary and mileage heretofore provided for, and be allowed the actual cost of the printing and supplies necessary for the publication and distribution of the matter heretofore mentioned: *Provided*, that the allowance for such printing and supplies shall not exceed the aggregate sum of two thousand dollars in any one year.

SEC. 8. The Commissioner shall, on or before the first day of January in each year, transmit to the Governor a full and complete report of the doings of his office, (including a tabulated statement of all statistics accumulated in his office), and a detailed and itemized account of the expenses thereof.

SEC. 9. The Commissioner shall collect information upon the subject of labor, its relation to capital, the hours of labor, and the earnings of laboring men and women, and the means of promoting their material, social, intellectual, and moral prosperity, and assort, systemize, print and present in annual reports to the Governor, on or before the first day in January of each year, statistical details relating to all departments of labor in this State, including the penal institutions thereof, particularly concerning hours of labor, the number of laborers and mechanics employed, the number of apprentices in each trade, with the nativity of such laborers, mechanics, and apprentices, wages earned, the savings from the same, the culture, moral and mental, with age and sex, of laborers employed, and number and character of accidents, the sanitary condition of institutions and other places where labor is employed, as well as the influence of the several kinds of labor, and the use of intoxicating liquors upon the health, and mental condition of the laborer, the restrictions, if any, which are put upon apprentices when indentured, the proportion of married laborers and mechanics who live in rented houses, with the annual rental of same, the average number of members in the families of married laborers and mechanics; the value of property owned by laborers and mechanics, together with the value of property owned by such laborers or mechanics (if foreign born), upon their arrival in this country, and the length of time they have resided here, the subject of co-operation, strikes, or other labor difficulties, trades unions, and other labor organizations, and their effects upon labor and capital, with such other matter relating to the commercial, industrial, and sanitary condition of the laboring classes, and permanent prosperity of the respective industries of the State, as such bureau may be able to gather, accompanied by such recommendations relating thereto, as the bureau shall deem proper.

SEC. 10. That the sum of \$7500.00 or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury, not otherwise appropriated, for the salary of said Commissioner and the expenses of his office, as in this Act provided, for the period of two years from and after this Act shall take effect.

SEC. 11. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved, March 2nd, 1899.

H. B. NO. 227.

AN ACT

PRESCRIBING THE TIME AND MANNER OF PAYMENT OF STATE MONEYS, BY COUNTY TREASURERS, TO THE STATE TREASURER; FIXING A PENALTY FOR FAILURE TO MAKE SUCH PAYMENTS, AND PROVIDING FOR THE COLLECTION THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever there is in the hands of any county treasurer in this State, the sum of one hundred dollars to the credit of the State of Idaho, in any fund or funds, except State school land fund, such treasurer shall, forthwith, pay over in cash, to the Treasurer of the State of Idaho, the full amount in his hands to the credit of the State, without expense to the State for the transmission thereof, which expense shall be paid by the county, and therewith furnish to the State Auditor a statement showing on what accounts such payment is made, and the amount to each: *Provided*, That prior to the making of such payment such treasurer shall ascertain,

from the county auditor, the amount owing to the State by the county of which he is such officer; and if he has on hand to the credit of the State in any fund an amount greater than is required to satisfy the claims of the State on that account, he shall retain such balance in such fund, and, forthwith, transfer the same to the warrant redemption fund of such county; or if there be no such fund, then to the current expense fund of the year in which such revenue was derived; notifying the county auditor of such transfer.

SEC. 2. Every county treasurer who fails to comply with the provisions of this Act shall be liable to the State for the interest, at the rate of seven per cent per annum, on such sum or sums as are herein required to be paid over to the State Treasurer, from the date at which such payment should have been made, as provided herein, to the date of the payment of the same; which interest may be collected by an action on the official bond of the treasurer so failing, on one or more causes of action.

Approved, March 6, 1899.

H. B. NO. 228.

AN ACT

GOVERNING THE ISSUING OF COUNTY WARRANTS; AMENDING SECTION 2009 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 2009 of the Revised Statutes of Idaho be and is amended to read as follows:

Section 2009. The auditor shall have prepared, in separate series, warrant blanks for each year. They must be numbered consecutively, and must show the year against the revenue of which they are to be issued. He shall begin the use of a new series of warrants on the second Monday in April of each year. All warrants issued by the auditor shall be upon the warrant blanks of the series for the year chargeable with the amount for which such warrant is issued, and the number, date, and amount of each, and the name of the person to whom payable, and the purpose for which drawn must be stated thereon. When the amount for which a warrant is to be drawn is greater than the sum of two hundred dollars, the auditors shall issue therefor warrants in sums of two hundred dollars or fraction thereof, unless there is cash in the county treasury in the fund against which such warrant is drawn for the payment of the same on presentation. All warrants must, at the time they are issued be registered by the auditor.

Approved, February 28, 1899.

H. B. NO. 230.

AN ACT

TO PROVIDE FOR THE TAKING UP AND DISPOSING OF ESTRAYS, AMENDING SECTIONS 1362, 1365 AND 1367 OF THE REVISED STATUTES OF THE STATE OF IDAHO, AND ADDING SECTIONS 3, 4 AND 5,

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1362 of the Revised Statutes of the State of Idaho be amended to read as follows:

Section 1362. If the owner or claimant of any stray animal be unknown, the takerup must, within ten days after taking up such animal, file with the county auditor a notice giving a description of such animal, the marks, brands, natural or artificial, as near as practicable, the name

and residence of the taker-up, and the time at which the same was taken up. Said auditor must immediately cause such notice to be published in a paper published nearest where said animal is taken up for four consecutive weeks. If no newspaper be published in any county of the State of Idaho, such notice must be published in some newspaper in an adjoining county for four consecutive weeks. Said taker-up must deposit with the county auditor the sum of fifty cents for filing and one dollar for publishing said notice.

SEC. 2. That section 1365 of the Revised Statutes of the State of Idaho, be amended to read as follows:

Section 1365. If any person entitled to the possession of any estray, does not appear and substantiate his title thereto, and pay the charges thereon, within forty days from the time when such notice is filed with the county auditor, such estray must be sold at the request of the taker-up by the sheriff or any constable of the county living nearest the place of sale, at public auction, upon first giving public notice thereof, in writing, by posting up the same in three of the most public places in the precinct where such estray was taken up, at least ten days before such sale, and the taker-up may bid thereon at such sale; and after deducting all the lawful charges of the taker-up, as aforesaid, nor to exceed ten cents per day for feeding each estray, and the fees of the sheriff or constable, which are the same as on an execution; the remaining proceeds of such sale must be deposited in the county treasury. Any estray sold as herein provided shall be branded by the sheriff or constable making such sale, with an estray brand, as fol-

lows: A circle with an initial letter E in the center  the same to

be placed on the left side, or ribs of all the horned stock, and on the left shoulder of all other stock. The branding irons for such purposes shall be furnished by each respective county in the State of Idaho; and the sheriff or constable, making such sale shall receive for his services the sum of fifty cents per head, for each animal so branded.

SEC. 3. When the taker-up of an estray finds marks or brands on such animal that are illegible, he must call a competent witness to establish said fact, whose name and address must be published in the estray notice filed with the county auditor.

SEC. 4. Any person or persons neglecting or refusing to comply with any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars and not more than one hundred dollars.

SEC. 5. Whereas an emergency exists this Act shall be in force and effect from and after its passage.

Approved, March 6, 1899.

H. B. NO. 238.

AN ACT

TO PROHIBIT THE ADULTERATION OF CANDIES AND CONFECTIONERIES, AND THE SALE OR OTHER DISPOSITION THEREOF, AND THE KEEPING OF ADULTERATED CANDIES AND CONFECTIONERIES FOR SALE OR OTHER DISPOSITION.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. No person shall, by himself, his servant or agent, or as the servant or agent of any other person or corporation, manufacture for sale,

or knowingly sell or offer to sell any candy adulterated by the admixture of terra alba, barytes, talc or any other mineral substance, by poisonous colors or flavors or other ingredients deleterious or detrimental to health.

SEC. 2. Whoever violates any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not exceeding one hundred dollars, nor less than twenty-five dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both; and he shall be adjudged to pay in addition, all necessary costs and expenses incurred in the inspection and analyzing such adulterated candy, and the same shall be forfeited and destroyed under the direction of the court.

SEC. 3. It is hereby made the duty of the county and prosecuting attorneys of this State to appear for the State, and to attend to the prosecution of all complaints under this Act in all the courts in their respective counties.

Approved, February 16, 1899.

H. B. NO. 240.

AN ACT

TO AMEND SECTION 20 OF AN ACT OF THE SECOND SESSION OF THE LEGISLATURE OF THE STATE OF IDAHO, ENTITLED "AN ACT TO PROVIDE FOR THE INTERNAL IMPROVEMENT OF THE STATE BY THE CONSTRUCTION OF A SYSTEM OF WAGON ROADS IN THE COUNTIES OF BOISE, CUSTER, LEMHI, IDAHO, SHOSHONE, KOOTENAI, LATAH, AND NEZ PERCE, AND PROVIDING FUNDS FOR THE CONSTRUCTION OF SAID SYSTEM OF WAGON ROADS BY THE ISSUANCE OF A SERIES OF STATE ROAD BONDS," APPROVED FEBRUARY 13, 1899, AND TO PROVIDE FOR THE INVESTMENT OF THE SINKING FUND.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 20 of the above entitled act be amended to read as follows: "Section 20. At any time prior to the time when the bonds provided in section 16 of this Act shall become subject to redemption, as provided by said section, the amount of money in the sinking fund provided for by section 19 of this Act shall exceed the amount required for the payment of interest coupons of such bonds due, or to become due within the next ensuing twelve months, the State Treasurer shall use such surplus in payment of any warrants drawn upon him by the State Auditor, and presented for payment and not paid for want of money in the fund upon which they are drawn properly applicable thereto, and shall register and endorse such warrants, as provided by section 238 of the Revised Statutes, and place the same, so endorsed, to the credit of the sinking fund aforesaid; and such warrants shall bear interest and be payable in due course as other outstanding warrants, and, when paid, the principal and interest thereof shall belong to the sinking fund aforesaid, and shall be in like manner reinvested until said bonds become redeemable as aforesaid.

SEC. 2. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved, March 4, 1899.

H. B. NO. 241.

AN ACT

AUTHORIZING AND DIRECTING THE STATE TREASURER TO TRANSFER CERTAIN FUNDS, AND PROVIDING FOR THE INVESTMENT OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the State Treasurer is hereby authorized and directed to transfer the sum of seven thousand eight hundred and fifty-three and

73-100 (\$7,853.73) dollars, now in his hands as an unexpended balance arising from the proceeds of the sale of bonds under the provisions of section 16 of an act of the second session of the Legislature of the State of Idaho, entitled, "An act to provide for the internal improvement of the State by the construction of a system of wagon roads in the counties of Boise, Custer, Lemhi, Idaho, Shoshone, Kootenai, Latah, and Nez Perce, and providing funds for the construction of said system of wagon roads by the issuance of a series of State road bonds," to the credit of the sinking fund provided in section 19 of an act of the fifteenth session of the Legislature of the Territory of Idaho, entitled, "An act to provide for a wagon road between Mt. Idaho, in Idaho County, and Little Salmon Meadows, in Washington County."

SEC. 2. That thereafter said sinking fund shall be invested in State warrants as is or may be provided by law.

SEC. 3. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved, March 7, 1899.

H. B. NO. 242.

AN ACT

TO AMEND SECTION 21 OF AN ACT OF THE FIFTEENTH SESSION OF THE LEGISLATURE OF THE TERRITORY OF IDAHO, ENTITLED "AN ACT TO PROVIDE FOR A WAGON ROAD BETWEEN MT. IDAHO, IN IDAHO COUNTY, AND LITTLE SALMON MEADOWS, IN WASHINGTON COUNTY," APPROVED FEBRUARY 5TH, 1889, AND TO PROVIDE FOR THE INVESTMENT OF THE ROAD FUND CREATED BY SECTION 19 OF SAID ACT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 21 of the above mentioned Act be amended to read as follows: "Section 21. At any time prior to the time when the bonds provided for in section 17 of this Act shall become subject to redemption, as provided by said section, the amount of money in the sinking fund provided in section 19 of this Act shall exceed the amount required for payment of the interest coupons of such bonds due, or to become due within the next ensuing twelve months, the State Treasurer shall use such surplus in payment of any warrants drawn upon him by the State Auditor, and presented for payment and not paid for want of money in the fund upon which they are drawn properly applicable thereto, and shall register and endorse said warrants as provided by section 238 of the Revised Statutes, and place the same, so endorsed, to the credit of the sinking fund aforesaid; and such warrants shall bear interest and be payable in due course as other outstanding warrants, and, when paid, the principal and interest thereof shall belong to the sinking fund aforesaid, and shall be in like manner re-invested until said bonds become redeemable as aforesaid."

SEC. 2. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved, March 7th, 1899.

H. B. No. 245.

AN ACT

RELATING TO THE DUTIES OF PROBATE JUDGES AND JUSTICES OF THE PEACE. AMENDING SECTION FOUR THOUSAND SEVEN HUNDRED AND SIXTY-TWO OF THE REVISED STATUTES OF THE STATE OF IDAHO AND ADDING THERETO SECTION FOUR THOUSAND SEVEN HUNDRED AND SIXTY-SEVEN,

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section four thousand seven hundred and sixty-two be amended to read as follows:

Section 4762. Every probate judge and every justice of the peace upon the expiration of his term of office, must deposit with his successor, his official dockets, statutes, and session laws, and all other books, papers and documents pertaining to his office, as well his own as those of his predecessor, or any other which may be in his custody to be kept as public records.

SEC. 2. That section 4767 be added to the Revised Statutes of the State of Idaho, and that said section read as follows:

Section 4767. Every probate judge and every justice of the peace whose duty it is to deliver over the dockets, books, records, and papers as prescribed in section 4762, shall forfeit and pay, for the use of the county, twenty-five dollars, for every three months' neglect, after due demand in writing by his successor in office, to perform such duty, which sum may be recovered at the suit of any person. The sum so recovered shall be paid into the current expense fund of the county.

SEC. 3. Whereas an emergency exists therefor, this Act shall be in force from and after its passage and approval by the Governor.

Approved, March 6, 1899.

H. B. NO. 251.

AN ACT

TO SECURE THE PRESERVATION OF THE EQUESTRIAN STATUE OF GENERAL GEORGE WASHINGTON, NOW IN POSITION UPON THE CAPITOL GROUNDS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the sum of five hundred dollars, or so much thereof as may be found necessary, be and is hereby appropriated, out of any moneys in the State treasury not otherwise appropriated, to place in a state of repair and preservation, the equestrian statue of General George Washington now occupying a place upon the Capitol grounds.

SEC. 2. That said repairs shall include a new base and pedestal for said statue, preferably of stone.

SEC. 3. All monies appropriated in accordance with the provisions of this Act shall be expended under the supervision of the Board for Capitol Building and Grounds.

Approved, March 4, 1899.

H. B. NO. 254.

AN ACT

TO PROVIDE FOR THE FREE AND UNIFORM TEXT BOOKS FOR THE PUBLIC SCHOOLS OF THE STATE OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Governor of the State of Idaho is hereby authorized and empowered to appoint five persons, one of whom shall be the State Superintendent of Public Instruction, and four of whom shall be educators

of the State of Idaho, who shall constitute a State Board of Text Book Commissioners, and who shall hold office until they have complied with the duties hereinafter imposed.

SEC. 2. The said Board of Text Book Commissioners shall meet at the State Capitol, in the Senate chamber, on the first Monday in May, 1899, for the purpose of selecting and adopting a uniform series of text books for use in all the public schools of the State. Said Board shall have power to formulate rules for its own government and three members shall constitute a quorum.

SEC. 3. Immediately upon the approval of this Act, the State Superintendent of Public Instruction shall advertise for at least thirty days in two newspapers published in the State giving, notice that the Text Book Commissioners will meet as hereinbefore provided, and will consider all offers and proposals for supplying the State of Idaho with a uniform series of text books for use in all public schools of said State for a term of six years from and after the first day of September, 1899, in the following branches, to wit: Spelling, reading, writing, arithmetic, geography, grammar, physiology and hygiene, civil government, history of the United States, and in all other branches taught in the common, graded, and high schools of the State. Said proposals shall state the price at which said books will be furnished free on board the cars at the places designated by the said Commission. *Provided*, That the price paid for the books so adopted and used in the public schools shall not exceed the price at which said books shall be sold by said publishers to other purchasers during the existence of their contract with the State.

SEC. 4. It shall be the duty of the said Board of Text Book Commissioners to meet at the time and place mentioned in said notice, and to carefully consider all proposals made to them for the furnishing of the said text books as hereinbefore provided, and said Board shall select and adopt such text books for use in all the public schools, as will in their judgment best subserve the interests and promote the progress of the public schools in the State.

The series of text books so selected and adopted by the said Board of Text Book Commissioners, shall be certified to by the chairman, and said certificate with a copy of all books named therein, must be placed on file in the office of the State Superintendent of Public Instruction. Such certificate must contain a complete list of all books adopted by the said Board, giving the price for which each kind and grade of books, will be furnished, and the name and address of the publisher; agreeing to furnish the same. The said books named in the said certificate shall for a period of six years from and after the first day of September, 1899, be used in all the public schools in the State to the exclusion of all others.

SEC. 5. The said Board of Text Book Commissioners shall have power to make such contracts and agreements with publishers as they shall deem necessary, for the best interest of the public schools of the State, and shall require of all publishers contracting and agreeing to furnish books adopted by said Commissioners to furnish bonds in double the amount in value of the books to be furnished, for the faithful performance of the conditions of said contract.

SEC. 6. Immediately after the filing of said certificate in his office, the State Superintendent of Public Instruction shall have prepared

printed lists of the text books adopted by said Board, with the price of each of said books as certified to in said certificate and shall forward the same to the county superintendents of the several counties of the State, who shall immediately forward one list to each trustee and to each teacher in his county.

SEC. 7. It shall be the duty of all book publishers furnishing books to the State of Idaho under this Act to keep the books they agree to furnish, on hand at all times at their places of business.

SEC. 8. Not later than the first Monday in August, 1899, and at such other times as may be necessary to properly supply the schools of said district the chairman of each of the several boards of trustees of the county shall forward to the county superintendent of his county a list of the kind of books, and the number of each kind, which will be required to supply the pupils of the public schools of his district. Immediately upon the receipt of this requisition from the chairman of the board of trustees, the county superintendent shall order from the nearest book publisher or publishers furnishing said books the books designated therein, and upon receipt of the duplicate bills from said publishers, and upon comparison with the original bills sent to the trustee or other person to whom the order was consigned, and after comparing the same with the published price furnished him by the State Superintendent as hereinbefore provided, shall order the county treasurer to remit the purchased price to the said publishers from the funds of said district; *Provided*, That if the district had no funds to its credit in the hands of the county treasurer, then the said county treasurer shall at once remit from the current expense fund of the county, the same to be reimbursed to the current expense fund of the county, from the funds of the district, as soon as the amount has been paid into the treasury to the account of said district. And *Provided, further*, That if from any cause the accounts are not paid within ninety days, the same shall draw interest at the rate of seven per cent per annum from the date of the shipment of the books to the date of payment.

SEC. 9. The county superintendent and the county treasurer shall each keep an account of all books ordered, showing the number of the district, the number and kind of books, the date of the order, the place from whence ordered, the date and the amount of the remittance and such other items as will in their judgment render the whole transaction easily understood. *Provided*, That the trustees of each district shall determine whether or not the text books for said district shall be free text books, and if it shall be determined by said trustees that said text books shall not be free then any parent or guardian or other person having the legal or actual control of a child or children, shall be required to purchase necessary books for such child or children from the trustees of his district at actual cost to that district, and the trustees shall pay the purchase price back into the treasury, the same to be placed to the credit of said district; *Provided*, That in cases where it is deemed by said trustees that any parent or guardian is unable to pay for said text books, the same may be furnished free.

SEC. 10. The clerk of the board of trustees is hereby made the custodian of the text books belonging to the district, and he shall, on the morning of the opening of the school or prior thereto, count out the number of the books belonging to the district, noting carefully the con-

dition of said books, and placing the same in the hands of the teacher taking a receipt for the same and at the end of the term of the school the said clerk of the board of trustees shall receive the said books from the teacher giving his receipt for them, and any missing or destroyed books shall be accounted for by the teacher, *Provided*, That the pupils shall be responsible through his parents or guardians, to the district, if the responsibility is fixed upon said pupil; And, *Provided, further*, That no one shall be responsible for the natural wear and tear of the books. In the interim of the sessions of the school the clerk of the board of trustees shall safely keep the books, and use due diligence in their preservation.

SEC. 11. In connection with the text books that shall have been adopted, the Board of Text Book Commissioners is authorized to prepare such suggestions and outlines as in their judgment will be useful to the teachers and schools of the State, which said suggestions and outlines shall be printed and distributed to the teachers and trustees of the State free of charge, by the State Superintendent of Public Instruction. In addition to the suggestions and outlines hereinabove mentioned, the State Superintendent is authorized and it shall be her duty to prepare and have printed such regulations as she may deem may be necessary, in regard to the care and custody of the books, and the keeping of the accounts between the districts and the several companies, and such regulations shall be binding on the county treasurer, county superintendent, teachers and trustees.

SEC. 12. The said Board of Text Book Commissioners shall each receive the sum of six dollars per day and in addition thereto each shall receive his actual and necessary expenses while in the discharge of his official duties including the time actually and necessarily consumed in going to and returning from the meeting of the Commission.

SEC. 13. There is hereby appropriated the sum of one thousand dollars or so much thereof as may be necessary, to carry out the provisions of this Act.

SEC. 14. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 15. Whereas an emergency exists, this Act shall take effect and be in force from and after its passage.

Approved, March 9, 1899.

H. B. NO. 263.

AN ACT

PREScribing THE NUMBER AND QUALIFICATIONS OF PERSONS WHO MAY FORM A PRIVATE CORPORATION BY VOLUNTARY ASSOCIATION, AMENDING SECTION 2576 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 2576 of the Revised Statutes of Idaho be amended to read as follows:

“Section 2576. Private corporations may be formed by the voluntary association of any five or more persons in the manner prescribed in this title. *Provided* one of such persons must be a bona fide resident of this State.”

SEC. 2. All acts or parts of acts in conflict with this Act are hereby repealed.

SEC. 3. Whereas an emergency exists, this Act shall take effect from and after its passage and approval by the Governor.

Filed February 28, 1899.

H. B. NO. 264.

AN ACT

REGULATING THE BUILDING AND MAINTENANCE OF BRIDGES ACROSS IRRIGATION CANALS OR DITCHES CROSSING HIGHWAYS, AND AMENDING SECTIONS 935 AND 968 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 935 of the Political Code of the Revised Statutes of Idaho be amended to read as follows:

Section 935. Whenever highways are laid out to cross railroads on public lands, the owners or corporations using the same must at their own expense so prepare their road, that the public highway may cross the same without danger or delay, and when the right of way for a public highway is obtained through the judgment of any court, over any railroad, no damage must be awarded for the simple right to cross the same.

SEC. 2. That section 968 be amended to read as follows:

Section 968. Any person desiring and intending to run water across any public road, street or highway in this State, must first construct a ditch of sufficient size to carry all such water, and must build a good substantial bridge, with good easy grades on and of the same over such ditch or ditches not less than sixteen feet wide, of good hewn or sawed timber or lumber, not less than three inches thick, laid on good substantial timbers, not less than six inches square, *said timbers shall not be laid more than three feet apart: Provided, That when the quantity of water of any ditch is such that a box or culvert will carry the same, said water may be conducted across any road, street or highway, by means of such box or culvert, which must be adapted to surface of the road, street or highway, and be built of a length of not less than sixteen feet, and in a manner so substantial as to bear and admit of uninterrupted travel, Provided, That when such bridge or box shall be constructed as above required and reported to the road supervisor of the road district where the same is located, it shall become county property and be maintained as other county bridges: Provided, That the said bridge, box, or culvert is accepted by the road supervisor as being built according to the above sections.*

Approved, March 15, 1899.

H. B. NO. 265.

AN ACT

TO PROVIDE FOR THE PAYMENT OF SALARIES TO COUNTY OFFICERS; TO PROVIDE THE MAXIMUM AND MINIMUM SALARIES TO BE ALLOWED, AND AUTHORIZING THE BOARDS OF COUNTY COMMISSIONERS TO FIX AND DETERMINE THE AMOUNTS OF SUCH SALARIES; TO PROVIDE FOR THE PAYMENT OF ALL NECESSARY EXPENSES OF SUCH COUNTY OFFICERS, AND FOR A PROPER ACCOUNTING OF ALL FEES AND COMMISSIONS, AND FOR THE DISPOSITION OF THE SAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The salaries of county officers as full compensation for their services must be paid quarterly from the county treasury, upon the warrants of the county auditor, and before being paid to such officers, must be allowed and audited by the board of commissioners as other claims against the county, and no officer or deputy must retain out of any money, in his hands belonging to the county, any salary, but all actual and neces-

sary expenses incurred by any county officer or deputy in the performance of his official duty shall be a legal charge against the county, and may be retained by him out of any fees which may come into his hands. All fees which may come into his hands from whatever source, over and above his actual and necessary expenses, shall be turned into the county treasury at the end of each quarter. He shall at the end of each quarter file with the clerk of the board of county commissioners, a sworn statement, accompanied by proper vouchers, showing all expenses incurred and all fees received, which must be audited by the board as other accounts.

SEC. 2. Any county officer or deputy who shall neglect or refuse to account for and pay into the county treasury any money received as fees or compensation in excess of his actual, and necessary expenses, incurred in the performance of his official duties, within ten days after his quarterly settlement with the county, shall be guilty of embezzlement of public funds, and be punishable as provided for such offenses.

SEC. 3. It shall be the duty of the board of county commissioners of each county, at its regular session in April next preceding any general election, to fix the annual salaries of the several county officers, except county attorneys, to be elected at said general election, for the term commencing on the second Monday in January next after said meeting, and in no case shall the salary of any county officer be less than the lowest amount hereinafter designated for such officer, and in no case shall it be higher than the highest amount hereinafter designated for such officer, provided that the annual salaries of the several county officers, except county attorney, for the term commencing on the second Monday in January, 1899, shall be fixed at the April, 1899, session of said board of county commissioners, *Provided further* that the salary so fixed shall be in force from and after the second Monday in April, 1899. The salary of county attorney shall be fixed at the regular July session next preceding each general election.

The sheriff shall receive a salary of not less than eight hundred dollars (\$800) per annum, and not to exceed two thousand dollars (\$2,000) per annum; he shall be allowed in addition to such salary as fixed by said board, the actual and necessary expenses for care of each prisoner confined in the county jail.

The clerk of the district court and ex-officio auditor and recorder shall receive a salary of not less than eight hundred dollars (\$800) per annum and not to exceed two thousand dollars (\$2000) per annum.

The assessor and ex-officio tax collector shall receive a salary of not less than eight hundred dollars (\$800) per annum, and not to exceed three thousand dollars (\$3000) per annum.

The county treasurer shall receive a salary of not less than five hundred dollars (\$500) per annum and not to exceed fifteen hundred dollars (\$1500) per annum.

The county attorney shall receive a salary of not less than five hundred dollars (\$500) per annum and not to exceed fifteen hundred dollars (\$1500) per annum.

The probate judge shall receive a salary of not less than five hundred dollars (\$500) per annum and not to exceed fifteen hundred dollars (\$1500) per annum.

The county superintendent of public instruction shall receive a salary

of not less than two hundred fifty dollars (\$250) per annum, and not to exceed twelve hundred dollars (\$1200) per annum.

The county surveyor shall receive a salary of not less than fifty dollars (\$50) per annum, and not to exceed eight hundred dollars (\$800) per annum.

The coroner shall receive a salary of not less than fifty dollars (\$50) per annum, and not to exceed three hundred dollars (\$300) per annum.

County commissioners shall receive a salary of not less than one hundred and fifty dollars (\$150) per annum, and not to exceed one thousand dollars (\$1,000) per annum; each commissioner in addition to said salary, shall be allowed his actual and necessary expenses in going from and returning to his home to attend the sessions of the board, and such other expenses as are provided in section one of this Act.

SEC. 4. The sheriff, and clerk of the district court and ex-officio auditor and recorder, shall be empowered by the board of county commissioners to appoint such deputies and clerical assistance as the business of their offices may require, said deputies to receive such remuneration as may be fixed by said board of county commissioners, which remuneration shall be paid quarterly in the same manner as the salaries of the county officers are paid: *Provided* that any of the officers mentioned in this section requiring the services of one or more deputies or requiring clerical assistance shall for a period of at least thirty days before any regular meeting of the board of county commissioners, publish a notice in some newspaper at the county seat, or if no newspaper is published at the county seat, then in some other newspaper published in the county, or if no newspaper be published in the county, then by posting a notice in his office for a period of thirty days before said regular meeting, of his intention to apply to the board of county commissioners for a deputy or deputies or for clerical assistance, and no deputy shall be appointed or clerical assistance allowed by said board until due proof of the publication of said notice shall have been furnished said board and the necessity for said assistance is satisfactorily shown, and any taxpayer in the county shall have a right to appear before said board and protest against said appointment and show cause why said assistance should not be allowed. *Provided further* that during the terms of the district court, the district judge may authorize said officers to employ such temporary assistance as they may need, and his certificate shall be sufficient proof to the board of the necessity of such employment.

SEC. 5. Counties created or organized after the passage of this Act shall be governed by the provisions hereof, and the boards of county commissioners of such newly created organized counties shall respectively fix and determine at their first meeting the salaries to be paid the several county officers as herein provided for.

SEC. 6. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 7. An emergency existing therefor, this Act shall be in force and take effect from and after the second Monday in April, 1899.

Approved, March 7, 1899.

H. B. NO. 266.

AN ACT

TO PROVIDE FOR THE ORGANIZATION AND GOVERNMENT OF IRRIGATION DISTRICTS AND TO PROVIDE FOR THE ACQUISITION OF WATER AND OTHER PROPERTY AND FOR THE DISTRIBUTION OF WATER THEREBY FOR IRRIGATION PURPOSES, AND FOR OTHER AND SIMILAR PURPOSES,

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever fifty, or a majority, of the holders of title, or evidence of title to lands susceptible of one mode of irrigation from a common source and by the same system of works, desire to provide for the irrigation of the same they may propose the organization of an irrigation district under the provisions of this Act, and, when so organized such district shall have the powers conferred, or that may be hereafter conferred by law, upon such irrigation districts. *Provided*, Said holders of title or evidence of title shall hold such title or evidence of title to, at least, one fourth part of the total area of the land in the proposed district, which will be assessable for the purposes of the district under the operations of this Act. The equalized county assessment roll next preceeding the presentation of a petition, for the organization of an irrigation district, under the provisions of this Act shall be sufficient evidence of title for the purposes of this Act.

SEC. 2. A petition shall be first presented to the "board of county commissioners," signed by the required number of holders of title or evidence of title, (and to, at least, one-fourth part of the total assessable area) of such proposed district, evidenced as above provided, which petition shall set forth and particularly describe the proposed boundaries of the district, and shall pray that the same may be organized under the provisions of this Act. The petitioners must accompany the petition with a map of the proposed district. Said map shall show the location and water supply of the proposed canal and all the other canals which might be situated within the boundaries of the said proposed district. If said water supply be from natural streams, the flow of said stream or streams shall be stated in terms of cubic feet per second of time. Said flow shall be given for, and shall state the length of, the period of extreme low water in said stream or streams. If the water supply for said proposed district is to be gathered by storage reservoirs, said map shall show the location of said proposed reservoirs, and shall give their capacity in acre feet, and said map is to be drawn to a scale of two inches to the mile. Cross sections of the proposed canal and all canals existing within the boundaries of said proposed district, and of all proposed dams and embankments, shall show in sufficient number, to show the contemplated mode of construction, and the capacity in cubic feet per second of the proposed, and said existing canals. Such cross sections to be drawn to the scale of ten feet to the inch, and said map and cross sections shall be certified to by a well known and competent irrigation engineer. Accompanying said maps, plans and cross sections shall be an estimate of the cost of all the proposed works of said district signed by the State Engineer who shall report to the board fully on all that pertains to the irrigation of said proposed district. The petitioners must also accompany the petition with a good and sufficient bond, to be approved by the said board of county commissioners, in double the amount of the probable cost of organizing such district, conditioned that the bondsmen will pay all the said costs, in case said organization be not effected. Such petition shall be presented at a regular meeting of said board, and shall be

published for, at least, three weeks before the time at which the same is to be presented, in some newspaper printed and published in the county, in which said proposed district is situated, together with a notice stating the time of the meeting, at which the same will be presented; and if any portion of such proposed district lie within another county or counties, then said petition and notice shall be published in a newspaper published in each of said counties. When such petition is presented, the said board shall set a time for a hearing upon the same, which time shall not be less than thirty nor more than sixty days from the date of its said presentation. A notice of the time of such hearing shall be published by said board, at least, fifteen days before the time of such hearing, in a newspaper published within the county in which said district is proposed to be organized; and, if any portion of said district lie within another county or counties, then said notice shall be published in a newspaper published within each of said counties. Said "board of county commissioners" may adjourn such hearing from time to time, not exceeding four weeks in all; and on the final hearing may make such changes in the proposed boundaries as they may find proper, and shall establish and define such boundaries.

Provided, That said board shall not modify said boundaries so as to except from the operation of this Act any territory within the boundaries of the district proposed by said petitioners, which is susceptible of irrigation by the same system of works applicable to other lands in such proposed district; nor shall any lands which will not, in the judgment of said board, be benefitted by irrigation by said system be included within such district.

Provided, That any person whose lands are susceptible of irrigation from the same source, may, in the discretion of the board, upon application of the owner to said board, have such land included in said district. Said board shall also make an order dividing said district into five divisions, of as nearly equal size as may be practicable, which shall be numbered first, second, third, fourth and fifth; and one director, who shall be a freeholder in the division, and an elector, and resident of the district shall be elected by each division.

Provided, That if a majority of the holders of title or evidence of title, evidenced as above provided, petition for the formation of a district, the board of county commissioners may, if so requested in the petition, order that there may be either three or five directors, as said board may order for such district, and that they may be elected by the district at large. Said board shall then give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this Act. Such notices shall describe the boundaries so established, and shall designate a name for such proposed district, and said notice shall be published for, at least, five weeks prior to such election, in a newspaper published within said county; and if any portion of such district lie within another county or counties, then said notice shall be published in a newspaper published within each of said counties. Such notice shall require the electors to cast ballots which shall contain the words "Irrigation District—Yes," or "Irrigation District—No," or words equivalent thereto, and also the names of the persons to be voted for to fill the various elective offices hereinafter prescribed. No person shall be entitled to a vote at any election held under the provisions of this Act unless he shall possess all the qualifications

required of electors under the general election laws of the State, and be a holder of land and a resident in the proposed district.

SEC. 3. Such election shall be conducted as nearly as practicable, in accordance with the general laws of the State: *Provided*, That no particular form of ballot shall be required, and that the provisions of the election laws as to the form of ballots shall not apply. At the time of making said order, said board of county commissioners shall appoint a registrar for each precinct so established, who shall have the same powers and shall perform the same duties and receive the same compensation as registrars under the general election laws of the State, but there shall be added to the usual electors' oath the following words, 'and I am a resident and owner of land within the boundaries of the..... irrigation district:' *Provided, however*, That for all subsequent elections the board of directors of the district shall appoint such registrars and election officers. The petition, together with all maps, cross sections, and papers filed therewith, shall, at all proper hours, be open to public inspection at the office of the clerk of the board of county commissioners between the date of their said filing and the date of the said final hearing thereon. *Provided also*, That in establishing and defining the boundaries of said proposed district, said board shall describe said boundaries in all cases by the legal subdivision lines of the United States surveys, if such surveys exist, or by the meander notes of survey through any such legal subdivision, with proper connections with established United States survey corners, and the area of any such fractional subdivision must in all cases be stated in order of the said board establishing and defining said boundaries. If any portion of said boundaries is across unsurveyed land, the courses and distances of the meander of such portion of said boundaries shall be given with connections, with United States survey corners, from each end of said meander line. A map giving all the information required in this section, in regard to the description of the said boundaries may be attached to the description of said boundaries in lieu of such detailed description, and when so attached, said map shall form a part of said description. The object of the above provision is to enable every land owner along said boundaries to ascertain from said description what part, if any, of his land is included within the said proposed district; and indefinite descriptions of boundaries of said proposed district shall in no case be made in the order of said board of county commissioners establishing and defining them; and said board shall have power to postpone the establishment and defining of said boundaries, as herein provided, till such time as the petitioners shall furnish sufficient information to enable it to do so conformable to the provisions of this section. Immediately after any election, for voting upon the organization of an irrigation district, the judges of said election shall forward the official results of said election to the clerk of said board of county commissioners. The said board of county commissioners shall meet within ten days after said returns are received, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that two-thirds of the votes cast are "Irrigation District—Yes," the said board shall, by an order entered on its minutes, declare such territory duly organized as an irrigation district, under the name and style therefore designated, and shall declare the persons receiving respectively the highest number of votes for such several offices, to be duly elected

to such offices. (And no action shall be commenced or maintained, or defense made affecting the validity of the organization, unless the same shall have been commenced or made within two years after the making and entering of said order.) Said board shall cause a copy of such order, duly certified, to be immediately filed for record in the office of county recorder of each county in which any portion of such lands are situated. (If it shall appear, however, that more than one-third of said votes are "Irrigation District—No," then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void, and the expenses properly incurred thereunder may be collected on the bond provided for in section 2 of this Act.) From and after the date of such filing of said order of the board of county commissioners, the organization of such district shall be complete, and the officers thereof shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying with the law, and shall hold such offices, respectively, until their successors are elected and qualified. The board of directors so elected shall meet within thirty days after said organization of the district, and shall elect a president, and appoint a secretary and a treasurer, who shall perform the duties imposed upon such officers under this Act. Persons who are not residents of this district may, in the discretion of the board of directors be appointed to the office of secretary or treasurer. The treasurer appointed under the operation of this Act, shall execute an official bond in the sum of thirty thousand dollars; said bond to be approved by the board of directors of the district. *Provided*, That when the amount of money in the hands of the said treasurer at any time exceeds the sum of thirty thousand dollars, said board of directors shall require an additional bond in a sum, at least, double the amount of money in the hands of said treasurer, in excess of said thirty thousand dollars. For the purpose of the election above provided for the board of county commissioners must establish a convenient number of election precincts in said proposed district, and define the boundaries thereof, which said precincts may thereafter be changed by the board of directors of such district. (In any district the board of directors thereof may, upon the presentation of a petition therefor by a majority of the holders of title or evidence of title of said district evidenced as above provided, order that on and after the next ensuing general election there shall be either three or five directors, as said board may order, and that they shall be elected by the district at large or by divisions, as so petitioned and ordered, and after such order such directors shall be so elected.

SEC. 4. An election shall be held in each district on the second Tuesday in January, nineteen hundred and one and on the second Tuesday in January in each second year thereafter, at which a board of directors for the district shall be elected. The person receiving the highest number of votes for any office to be filled in such election, is elected thereto, and shall hold office from the first Tuesday in February next after for two years, and until his successor is elected and qualified. Within ten days after receiving the certificates of election hereinafter provided for, said officer shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge

of the probate court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds provided for in this Act shall be in the form prescribed by law for the official bonds of county officers.

SEC. 5. At least, thirty days before any election held under the provisions of this Act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling places of each precinct. Prior to the time of posting the notices, the board must appoint for each precinct, from the electors thereof, three judges of the election, who shall constitute a board of election for such precinct. If the board shall fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of the absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election is to be held.

At the time of appointing such election board, said board of directors shall appoint a registrar for each precinct of the district (except the precinct in which the office of the secretary of the board is located.) In the precinct in which his office is located (or where there is but one voting precinct in the district) the secretary of the board of directors of the district shall act as registrar. The registrars appointed under the provisions of this Act shall be governed in the performance of their duties by the general election laws of the State as far as they are applicable; and must be at their places of registration, to receive applications for registration, from nine o'clock a. m. to nine p. m., on each of the three Saturdays next preceding the date of election.

In addition to the usual elector's oath, the following shall be added, "And I am a resident in, and owner of land within the boundaries of Irrigation District."

No regular or special election for any purpose shall be held in any irrigation district without such registration, and only those persons duly registered shall be allowed to vote thereat.

SEC. 6. The said judges shall elect a chairman of the board, who may

FIRST. Administer all oaths required in the progress of an election.

SECOND. Appoint judges and clerks, if, during the progress of an election, any judge or clerk ceases to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of the election. The board of election of each precinct, must before opening the polls, appoint two clerks to act as clerks of election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened one hour after sunrise on the morning of election, and be kept open until sunset, when the same must be closed. The provisions of the Political Code, and all

acts amendatory and supplementary thereof concerning the form of ballots to be used, shall not apply to elections held under this Act.

SEC. 7. Voting may commence as soon as the polls are open and may continue during all the time the polls remain open, and shall be conducted as nearly as practicable in accordance with the provisions of the act concerning "elections and electors," approved February 25, 1891, and acts amendatory and supplementary thereof. As soon as the polls are closed, the judges shall open the ballot box and shall commence counting the votes; and in no case shall the ballot box be removed from the room in which the election is held until all the ballots have been counted. The counting of the ballots shall in all cases be public. The ballots shall be taken out, one by one, by the chairman of the board of election or one of the judges, who shall open them and read aloud the name of each person contained thereon, and the office for which every such person is voted for. Each clerk shall write down each office to be filled, and the name of each person voted for for such office, and shall keep the number of votes by tallies, as they are read by such chairman or judge. The counting of the votes shall continue without adjournment till all the votes shall have been counted.

SEC. 8. As soon as all the votes are read off and counted, a certificate shall be drawn up on each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in words and figures at full length. Each certificate shall be signed by all the members of the board of election and by both clerks. One of said certificates, with the poll list and tally paper to which it is attached, shall be retained by the chairman of the board of election, and reserved by him for at least six months. The ballots shall be strung on a cord or thread by the said chairman, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll lists and tally paper to which it is attached, shall be sealed by the said chairman in the presence of the other judges and the clerks, and endorsed "election returns of (naming precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by said chairman, or by other safe and responsible carrier designated by him, to said secretary, and the ballots shall be kept unopened for, at least, six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted he may appear on the day appointed for the board of directors to open and canvass the returns and demand a recount of the precinct that is claimed to have been incorrectly counted.

SEC. 9. No list, tally paper or certificate returned from any election, shall be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of the meeting, the returns of each precinct in which polls have been opened have been received, the board of directors must then and there proceed to canvass the returns; but, if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns

and estimating the vote of the district for each person voted for, and declaring the result thereof.

SEC. 10. The secretary of the board of directors must, as soon as the result is declared, enter on the records of such board a statement of such result, which statement must show:

FIRST. The whole number of votes cast in the district and each division of district.

SECOND. The names of the persons voted for.

THIRD. The office to fill which each person was voted for.

FOURTH. The number of votes given in each precinct to each of such persons.

FIFTH. The number of votes given in each division for the office of director.

The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must, immediately, make out and deliver to such persons a certificate of election, signed by him and authenticated with the seal of the board. In case of a vacancy in the office of director the vacancy shall be filled by appointment by the board of county commissioners, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

SEC. 11. On the first Tuesday in February next following their election, the board of directors shall meet and organize as a board, elect a president from their number, and appoint a secretary and a treasurer, who shall each hold office during the pleasure of the board. The board shall have the power and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers and employees as may be required, and to prescribe their duties; establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said land as may be necessary and just to secure the just and proper distribution of the same. Such rules and regulations may fix a maximum quantity and the times of use of water to be distributed to each tract of land entitled to its use, and may establish a system of charges by quantity for all water used above said maximum quantity which shall be, as nearly as the board can determine, the minimum average quantity necessary for the lands of the district. Said by-laws, rules and regulations must be printed in convenient form for distribution throughout the district. Said board shall perform all such Acts as shall be necessary to fully carry out the purposes of this Act.

SEC. 12. The board of directors shall hold a regular monthly meeting in their office, on the first Tuesday in every month, during the irrigation season, and such special meetings as may be required for the proper transaction of business: *Provided*, That all special meetings must be ordered by the majority of the board. The order must be entered of record, and five days notice thereof must, by the secretary, be given to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified must be transacted at such special meeting. All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business; but, on all questions

requiring a vote, there shall be a concurrence of, at least, a majority of the members of the board. All records of the board shall be open to the inspection of any elector during business hours. The board and its agents and employees shall have the right to enter upon any land, to make surveys, and may locate the necessary irrigation works and the line for any canal or canals, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire either by purchase, condemnation or other legal means, all lands and waters and water rights, and other property necessary for the construction, use and supply, maintenance, repair and improvements of said canal or canals and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances. In case of purchase, the bonds of the district hereinafter provided for may be used to their par value in payment. Said board may also construct the necessary dams, reservoirs and works for the collection of water for said district; and do any and every lawful act necessary to be done that sufficient water may be furnished to each land owner in said district for irrigation purposes. The use of all water required for the irrigation of the lands of any district formed under the provisions of this Act, together with the rights-of-way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of this Act, is hereby declared to be a public use, subject to the regulation and control of the State, in the manner prescribed by law.

SEC. 13. The legal title to all property acquired under the provisions of this Act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this Act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property as herein provided.

SEC. 14. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the uses and provisions of this Act in the name of such irrigation district, to and for the purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this Act or to enforce, maintain, protect or preserve any and all rights, privileges, and immunities created by this Act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear, and defend, in person or by attorneys, and in the name of such irrigation district.

SEC. 15. For the purpose of constructing necessary irrigating canals and works, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this Act, the board of directors of any such district must, as soon after such district has been organized as may be practicable, formulate a general plan for such construction and acquisition of such property, and shall cause such surveys, examinations and plans to be made as shall demonstrate the practicability of such plan and furnish the proper basis for an estimate of the cost of carrying out said plan. All such surveys, examinations, maps, plans and estimates, shall be made under the direction of an irrigation engineer of well known standing and competency, and all such necessary surveys, examinations, maps, plans and estimates must be certified to by him. When all such are completed and the results in the hands of the said board of directors, said board shall

submit a copy of its said plan, together with the proper field notes of all such said surveys and examinations and all such said maps, plans and estimates, to the State Engineer for examination and report. As soon as possible and within ninety days from the date said field notes, maps, plans, and estimates are submitted to him, the State Engineer shall make a written report upon the whole subject to the said board, which report shall include a discussion of the said plans submitted to him by said board, of the question of water supply, of the sufficiency of the works proposed to accomplish the desired results, of the practicability of the proposed system from an engineering standpoint, of the probability of its being acquired and constructed within the estimate of cost stated, and such general discussion and recommendations in regard to the engineering and financial features of the whole matter as in the judgment of the State Engineer may be desirable for the information of the people of said district. Said report shall be accompanied by a map when such is necessary for a proper explanation or understanding of the same. Upon receiving said report said board of directors shall proceed to determine the amount of money necessary to be raised, and shall immediately thereafter call a special election, at which shall be submitted to the electors of such district possessing the qualifications prescribed by this Act, the question whether or not the bonds of said district in the amount as determined shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least thirty days, and also by the publication of such notice in some newspaper published in the county where the office of the directors of such district is kept, once a week for at least four successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued, and shall state that maps and estimates and said report of the State Engineer are on file and open to public inspection by the people of the district, at the office of the said board, and at the office of the State Engineer at the State Capitol. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this Act governing the election of officers: *Provided*, That no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. At such elections the ballots shall contain the words "Bonds—Yes" or "Bonds—No" or words equivalent thereto. If two-thirds of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if more than one-third of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record. And whenever thereafter said board in its judgment deems it for the best interest of the district that the question of the issuance of bonds in said amount, or any other amount, shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to said electors in the same manner and with like effect as at such previous election. Said bonds shall be payable in money of the United States, in ten series, as follows, to wit: At the expiration of eleven years, five per cent. of the whole number of said bonds; at the expiration of twelve years, six per cent.; at the expiration of thirteen years, seven per cent.; at the expiration of fourteen years, eight per cent.; at the expiration of fifteen years, nine per cent.; at the expiration of sixteen years, ten per cent.; at the expiration of seventeen years, eleven per cent.; at the expiration of eighteen

years, thirteen per cent.; at the expiration of nineteen years, fifteen per cent.; at the expiration of twenty years, sixteen per cent.; and shall bear interest at a rate not to exceed seven per cent. per annum, payable semi-annually on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed thereto. Each issue shall be numbered consecutively as issued, and the bonds of each issue shall be numbered consecutively, and bear date at the same time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this Act, stating its title and date of approval, and shall also state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser. In case the money raised by the sale of all the bonds be insufficient for the completion of the plan and works adopted and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan by levy of assessment therefor: *Provided*, The board of directors of said irrigation district shall commence a special proceeding, in and by which the proceedings of said board and of said district providing for and authorizing the issue and sale of bonds of said district, whether said bonds or any of them have or have not been sold, may be judicially examined, approved and confirmed.

SEC. 16. The board of directors of the irrigation district shall file in the district court of the county in which the lands of the district or some portion thereof are situated, a petition, praying in effect that the proceedings aforesaid may be examined, and approved and confirmed by the court. The petition shall state the facts showing the proceedings had for the issue and sale of said bonds, and shall state generally that the irrigation district was duly organized, and that the first board of directors was duly elected; but the petition need not state the facts showing such organization of the district or the election of said first board of directors.

SEC. 17. The court shall fix the time for hearing of said petition, and shall order the clerk of the court to give and publish a notice of the filing of said petition. The notice shall be given and published in the same manner, and for the same length of time that the notice of a special election provided for by said Act, to determine whether the bonds of said district shall be issued, is required to be given and published. The notice shall state the time and place fixed for the hearing of the petition, and the prayer of the petition, and that any person interested in the organization of said district, or in the proceedings for the issue or sale of said bonds, may, on or before the day fixed for the hearing of said petition, demur to or answer said petition. The petition may be referred to and described in said notice as the petition of the board of directors of irrigation district (giving its name) praying that the proceedings for the issue and sale of the bonds of said district may be examined, approved and confirmed by said court.

SEC. 18. Any person interested in said district, or in the issue or sale of said bonds, may demur to or answer said petition. The provisions of the Code of Civil Procedure respecting the demurrer and the answer to a

verified complaint shall be applicable to a demurrer and answer to said petition. The person so demurring to or answering said petition shall be the defendants to said special proceedings, and the board of directors shall be plaintiff. Every material statement of the petition not specifically controverted by the answer, must for the purpose of said special proceeding be taken as true; and each person failing to answer the petition shall be deemed to admit as true all the material statements of the petition. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this Act, are applicable to the special proceeding herein provided for. A motion for a new trial must be made upon the minutes of the court. The order granting a new trial must specify the issues to be re-examined on such new trial, and the findings of the court upon the other issues shall not be affected by such order granting a new trial.

SEC. 19. Upon the hearing of such special proceeding, the court shall have power and jurisdiction to examine and determine the legality and validity of, and approve and confirm each and all of the proceedings for the organization of said district under the provisions of the said Act, from and including the petition for the organization of the district, and all other proceedings which may affect the legality or validity of said bonds, and the order for the sale, and the sale thereof. The court, in inquiring into the regularity, legality or correctness of said proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said special proceeding; and it may approve and confirm such proceedings in part, and disapprove and declare illegal or invalid other and subsequent parts of the proceedings. The court shall find and determine whether the notice of the filing of said petition has been duly given and published for the time and in the manner in this Act prescribed. The cost of the special proceedings may be allowed and apportioned between all the parties, in the discretion of the court.

SEC. 20. An appeal from an order granting or refusing a new trial, or from the judgment, must be taken by the party aggrieved within thirty days after the entry of said order or said judgment.

SEC. 21. The board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money for the construction of said canals and works, the acquisition of said property and rights and otherwise to fully carry out the objects and purposes of this Act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolutions to be entered on the minutes, and notice of sale to be given by publication thereof at least sixty days in three newspapers published in the State of Idaho, one of which shall be a newspaper published in the county in which the office of the board of directors is situated, if there be a newspaper published in said county, and in any other newspaper at their discretion. That notice shall state that sealed proposals will be received by the board at their office for the purchase of the bonds till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds to the highest responsible bidder, or may reject all bids; but said board shall in no event sell any of the said bonds for less than the par or face value thereof.

SEC. 22. Said bonds and the interest thereon shall be paid by revenue derived from the annual assessment upon the land in the district, and all the land in the district, shall be and remain liable to be assessed for such payments as hereinafter provided.

SEC. 23. Said board of directors shall, before August 15th of each year cause to be prepared an assessment book, containing a full and accurate list and description of all the land in the district, and a list of the persons who own, claim, have possession, or control thereof during said year, giving the number of acres listed to each person. If the name of the person owning, claiming, possessing, or controlling any tract of said land is not known, it shall be listed to "unknown owners."

SEC. 24. On or before the first Monday in September in each year, the secretary of the board must give notice of the time the board of directors will meet to correct assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty, and not more than thirty days from the first publication of the notice; and in the meantime the assessment book must remain in the office of the secretary for the inspection of all persons interested.

SEC. 25. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is here constituted a board of correction for that purpose, shall meet and continue in session from day to day, as long as may be necessary, not to exceed ten days, exclusive of holidays, and may make such changes in said assessment book as may be necessary to make it conform to the facts. Within five days after the close of said session, the secretary of the board shall have the corrected assessment book complete.

SEC. 26. At its regular meeting in October, the board of directors shall levy an assessment by acreage, sufficient to raise the annual interest on the outstanding bonds, and at the expiration of ten years after the issuing of bonds of any issue must increase said assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature. The secretary of the board must compute and enter in a separate column of the assessment book, the respective sums, in dollars and cents, to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury, and shall constitute a special fund, to be called the "Bond Fund of Irrigation District."

SEC. 27. The assessment is a lien against the property assessed from and after the first Monday in March for any year (and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue), and such lien is not removed until the assessments are paid, or the property sold for the payment thereof.

SEC. 28. On or before the first day of November the secretary must deliver the assessment book to the treasurer of the district, who shall within ten days publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable and will become delinquent at 6 o'clock p. m. on the first Monday of January next thereafter, and also the times and places at which payments of assessments may be made, which notice shall be published for the period of two weeks. The treasurer must attend at the times and places specified in the notice, to receive assessments, which must be paid in lawful money

of the United States; he must mark the date of payment of any assessment in the assessment book, opposite the name of the person paying and give a receipt to such person, specifying the amount of the assessment and the amount paid with a description of the property assessed. On the first Monday in January at 6 o'clock p. m. of each year, all unpaid assessments for the preceding year are delinquent.

SEC. 29. On or before the second Monday in January in each year, said treasurer of the district shall furnish the assessor and collector of the county in which said land is situated, a properly certified delinquent list, containing a description of all tracts of land upon which the assessments are delinquent and the amount of assessment against each such tract, and the name of the person or persons as shown on the assessment book as being the owner or owners thereof. Said county assessor and collector shall publish said delinquent list at the same time and in the same manner as the county delinquent tax list for the preceding year, published by him as required by law, and said county assessor and collector shall collect the the amounts of said delinquent list in the same manner and with the same penalties, costs, and interest charges added as is provided by law for the collections of the amounts of the delinquent State and county taxes, and all procedure in regard to said collection of said delinquent assessments (including sale and deeding of the land against which the assessment stands) shall, as far as applicable be in accordance with the provisions of the law in regard to such proceedings in the case of delinquent county taxes.

Provided, A redemption of any land sold for delinquent district assessments may be made by any party in interest within one year from the date of purchase.

Provided further, That in case any such land is not otherwise sold as provided by law, it shall be struck off to the irrigation district to which the assessment for which it is thus sold is due, instead of to the county. Any irrigation district as a purchaser of any land at any such delinquent tax sale shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board:

Provided, That authority to so convey must be conferred by resolution of the board, entered, on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property.

SEC. 30. All certificates and deeds to land for delinquent assessments shall be issued in the manner provided in case of sales for delinquent county taxes, and any such deed shall set forth the fact that the land was assessed as required by law, that the assessment was not paid, and that at the proper time and place the land was sold by the county assessor and collector as provided by law, that the land was not redeemed, and that the officer executing the deed is the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all incumbrances, except when the land is owned by the United States

or this State, in which case it is prima facie evidence of the right of possession.

The delinquent list, certified by the treasurer, showing unpaid assessments against any person or property is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of the assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

Said county assessor and collector shall be entitled to the same percentages and fees for the collection of said district assessments as are provided by law for him for collection of county taxes. All money collected by the assessor and collector on any such delinquent assessment list, less said percentage or fees, shall be by him turned over to the treasurer of the proper irrigation district, in the same manner as is by law provided for the turning over of money received on county delinquent tax collections to the county treasurer. Said county assessor and collector shall be liable, on his official bond as such officer, for failure to properly perform the duties imposed upon him by this Act.

SEC. 31. Said county assessor and collector shall publish said district delinquent list separate from the list of delinquent county taxes, and when paid he shall give a separate receipt therefor.

SEC. 32. Upon the presentation of the coupons due to the treasurer, he shall pay the same from said bond fund. Whenever, after ten years from the issuance of said bonds, said fund shall amount to the sum of ten thousand dollars, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising for at least four week in some newspaper published in the county, and in any other newspapers which said board may deem advisable, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted: *Provided*, That no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bonds shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under the direction of the board, in United States bonds, or the bonds or warrants of the State, which shall be kept in said "bond fund" and may be used to redeem said district bonds whenever the holders thereof may desire.

SEC. 33. After adopting a plan for said canal or canals, storage reservoirs, and works, the board of directors shall give notice, by publication thereof not less than thirty days in one newspaper published in each of the counties comprising the district: (*Provided*, A newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as soon as convenient thereafter the board shall let said work,

either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and re-advertise for proposals. Contracts for the purchase of the material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent. of the amount of the contract price, conditioned upon the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and approved by the board. *Provided*, That no contract of any kind shall be let by said board of directors unless there is sufficient money in the district treasury at the time such contract is let and available for such payment, to fully pay for the work or material so contracted for.

SEC. 34. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary.

SEC. 35. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair and improvement of such portion of said canal and works as are completed and in use, including salaries of officers and employees, the board may either fix rates of tolls and charges, and collect the same from all persons using said canal for irrigation and other purposes, or they may provide for the payment of said expenditures by a levy of assessments therefor or by both said tolls and assessments; if by the latter method, such levy shall be made on the completion and correction of the assessment roll. The procedure for the levying, and for the collection of the assessments by such levy, shall in all respects conform to the provisions of this Act relating to the payment of principal and interest of bonds herein provided for.

SEC. 36. The board of directors shall have power to construct the said works across any stream of water, water course, street, avenue, highway, railway, canal, ditch, or flume which route of said canal or canals may intersect or cross, in such a manner as to afford security for life and property; but said board shall restore the same when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness: and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing or franchise to be crossed, cannot agree upon the amount to be paid therefor, or upon the points or the manner of said crossing or intersections, the same shall be ascertained and determined in all respects as herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct and maintain said works over and through any of the lands which are now or may be the property of the State.

SEC. 37. At least as often as at the end of each year after this organization, the State Engineer, shall make a careful investigation of the condition of each irrigation district organized under the provisions of this Act; and shall report thereon to the board of directors of said districts. Said re-

port shall state the condition of the work of construction, as to capacity, stability, and permanency, and whether or not the plan of irrigation formulated under the provisions of this Act, is being properly and judiciously carried out, and whether or not, in his opinion, the funds available will complete the proposed work. In such report the State Engineer shall state such facts, and make such suggestions, and recommendations, to said board of directors, as he may deem advisable for the best interests of the districts.

SEC. 38. The members of the board of directors shall each receive not more than three dollars per day for each day spent attending the meetings, or while engaged in official business under the order of the board. The board shall fix the compensation to be paid to the other officers named in this Act; to be paid out of the treasury of the district: *Provided*, That said board shall, upon the petition of fifty, or a majority of the freeholders within such district, submit to the electors at any general election, a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board twenty days prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this Act.

SEC. 39. No director or any other officer named in this Act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail, not to exceed six months, or by both such fine and imprisonment.

SEC. 40. The board of directors may, at any time, when in their judgment it may be advisable, call a special election, and submit, to the qualified electors of the district the question, whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this Act. Such election must be called upon the notice prescribed, and the same shall be held, and the result thereof determined and declared in all respects in conformity with the provisions of section fifteen of this Act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections, the ballots shall contain the words "Assessment—Yes," or "Assessment—No." If two-thirds or more of the votes cast are "Assessment—Yes," the board shall, at the time of the annual levy hereunder, levy an assessment sufficient to raise the amount voted. The assessment so levied shall be computed and entered on the assessment roll by the secretary of the board and collected at the same time, and in the same manner as other assessments provided for herein; and when collected, shall be paid into the district treasury for the purposes specified in the notice of such special election.

SEC. 41. The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this Act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void (except for the purpose of organization or for any of the purposes of this Act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in

the aggregate, the sum of two thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at seven per cent. per annum.)

SEC. 42. Navigation shall never in anywise be impaired by the operation of this Act, nor shall any vested interest in or to any mining water rights or ditches or in or to any water or water rights, or reservoirs or dams now used by the owners or possessors thereof in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or to any other property now used, directly or indirectly in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights-of-ways may be acquired over the same.

SEC. 43. None of the provisions of this Act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of irrigation or water distribution, except as provided in section 59 of this Act. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of the State authorizing the taking of private property for public uses.

SEC. 44. The holder or holders of any title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous and which, taken together, constitute one tract of land, may file with the board of directors of said district, a petition in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such description need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners, and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

SEC. 45. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections, for the issue of bonds, are required by said Act to be published.

The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in or that may be affected by such change of boundaries of the district, to appear at the office of the said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for publication of the notice. The petitioners shall advance to the

secretary sufficient money to pay the estimated costs of all proceedings under this Act.

SEC. 46. The board of directors, at the time and place mentioned in said notice or at such other time or times to which the hearing of the said petition may be adjourned, shall proceed to hear the petition and all the objections thereto presented in writing by any person, showing cause, as aforesaid, why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district or in the matter of the proposed change of its boundaries, to show cause in writing as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such a petition with said board as aforesaid, shall be deemed and taken as an assent on the part of each and all petitioners to such a change of said boundaries, that they may include the whole or any portion of the lands described in said petition.

SEC. 47. The board of directors to whom such petition is presented may require, as a condition precedent to the granting of the same that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments had such lands been included in such district, at the time the same was originally formed.

SEC. 48. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed and if no person interested in said district or the proposed change of its boundaries show cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

SEC. 49. If any person interested in said district, or the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

SEC. 50. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall

be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said Act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of Boundary," or "Against change of Boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can be readily traced.

SEC. 51. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in the matter.

But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portion thereof to be made as the board may deem necessary.

SEC. 52. Upon a change of the boundaries of a district being made a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

SEC. 53. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board, the petition aforesaid and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

SEC. 54. A guardian, executor, or an administrator of an estate who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this Act mentioned, why the boundaries of the district should not be changed.

SEC. 55. In case of the inclusion of any land within any district by the proceedings under this Act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order re-dividing such district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one director shall thereafter be elected by each division. For purposes of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary.

SEC. 56. Whenever the boards of directors of any two or more irrigation districts which are contiguous, deem it for the best interest of their respective districts that the same be consolidated into a single district such boards of directors may petition the board of county commissioners for an order for an election, to vote upon the question of such consolida-

tion, which petition shall state in detail the terms upon which such consolidation is proposed to be made. Upon receiving such petitions said board of county commissioners shall request the State Engineer to investigate the conditions of such districts and all questions affecting such proposed consolidation and he shall make report of the result of such investigations to the board of county commissioners, not more than ninety days after such request is received. At the time said report upon the matter is made, said board of county commissioners, if deemed advisable, shall make an order fixing a time for an election in said districts to vote upon the question of such proposed consolidation, which time shall not be less than thirty nor more than sixty days after the date of said report.

Notice of such election shall be published as required for notice of election in section 2, of this Act; and the said boards of directors shall make all necessary arrangements for such election in their respective districts as provided in this Act for other elections. The ballot shall be substantially as follows:

Consolidation—Yes, Consolidation—No.

The said boards of directors shall canvass the returns of such election as provided in case of usual district elections, and shall immediately thereafter transmit by messenger or registered mail, certified abstracts of the result of said election in their respective districts, to the clerk of the board of county commissioners.

Within ten days after such returns are received by said clerk the said board of county commissioners shall meet and canvass the same. If it appears that a majority of all the votes cast in each of said districts is "Consolidation—Yes" said board shall make an order, and enter the same of record in its minutes, establishing said consolidated district, giving its boundaries and designation, and in detail, the terms under which the consolidation has been effected, and dividing said consolidated district into five divisions, and shall appoint some person qualified under this Act, to act as director for each of said divisions of said district until the next general election for the election of officers under the operation of this Act: *Provided however*, That the organization of such district shall not take effect until the first Tuesday of the February following said order of its establishment.

If the date provided by law for the election of directors shall come between the date of said order of the board of county commissioners and said first Tuesday of February, then in making such order said board shall designate the board of directors of one of the consolidated districts as a board to take charge of said election, and a director shall in that case be elected for each said division of said consolidated district, and in that case no appointment of directors shall be made by the said board of county commissioners.

If, however, upon such canvass by said board of county commissioners it appears that a majority of the votes cast in any district thus proposed to be consolidated is "Consolidation—No," then a record of that fact shall be entered in the minutes of said board of county commissioners, and all the proceedings had under this section shall be void.

SEC. 57. On or before the first Tuesday of February of each year the board of directors of each irrigation district organized under this Act, shall publish in at least one issue of some newspaper published in the

county or counties in which such district is situated a full, true, and correct statement of the financial condition of said district on the first Monday of the preceding January, giving a statement of all liabilities and assets of the district on such first Monday of January.

SEC. 58. Any board of directors of any such irrigation district or the secretary thereof, shall allow at any time any member of the board of county commissioners, when acting under the order of such board, to have access to all books, records and vouchers of the district which are in possession or control of said board of directors or said secretary of said board.

SEC. 59. An act entitled "An act to provide for the organization and government of irrigation districts and to provide for the acquisition of water and other property and for the distribution of water thereby for irrigation and similar purposes," approved March 9th, 1895, and all other acts or parts of acts amendatory thereto be and the same are hereby repealed.

Approved, March 6, 1899.

H. B. NO. 267.

AN ACT

TO PROVIDE FOR THE APPOINTMENT OF A STATE FISH AND GAME WARDEN, AND DEPUTY WARDENS; DEFINING THEIR DUTIES AND FIXING THEIR SALARIES; AND TO PROVIDE FOR THE PROTECTION OF FISH AND GAME, AND REPEAL ALL OTHER ACTS IN FORCE RELATIVE TO THE PROTECTION OF FISH AND GAME, EXCEPT THE ACT RELATIVE TO BUFFALO; AND TO APPROPRIATE MONEY FOR THE SALARY AND OFFICE EXPENSES OF THE STATE FISH AND GAME WARDEN.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The Governor, at the beginning of his term of office, shall appoint a competent person as Fish and Game Warden, whose term of office shall be two years, or until his successor is appointed and qualified.

SEC. 2. Before entering upon his duties the said Warden shall file with the Secretary of State, after approval by the Governor, a good and sufficient bond with two or more sureties in the sum of one thousand dollars, conditioned upon the faithful discharge of his duties.

SEC. 3. Said Fish and Game Warden shall receive as full compensation the sum of twelve hundred dollars per annum, to be paid out of the public treasury, in the same manner as salaries of other State officers.

SEC. 4. The Fish and Game Warden is hereby authorized to appoint a special deputy in each county in this State, who shall be a resident of the county for which he is appointed, such special deputy to see that the fish and game laws are observed within the county for which he is appointed.

SEC. 5. Such special deputy shall receive as his compensation one-half of all fines recovered upon prosecution procured by him for violation of the fish and game laws of this State, and shall receive no other compensation.

SEC. 6. It shall be the duty of said Warden and his deputies to enforce all the laws relating to game and fish; he or any of his deputies shall arrest, or cause to be arrested, all violators thereof and prosecute the same; he and each of his deputies shall have full power to arrest any and all persons who may be found violating any of the fish and game laws of the State, when aware of the same of his own knowledge or when informed by sworn information. He and each of his deputies is hereby authorized to arrest without process of warrant any person or persons found violating any of the fish and game laws of the State, when

detected in the act, or found with fish or game in their possession at the time of arrest.

SEC. 7. It shall be unlawful for any person or persons to kill, ensnare, trap, or destroy any moose or caribou at any time during the period of five years from and after the passage of this Act.

SEC. 8. It shall be unlawful for any person or persons to kill, ensnare, trap or destroy any deer, antelope, mountain sheep or mountain goat, between the first day of January and the first day of September of each year; or to kill, ensnare, trap, or destroy more than four of any such animals during the time such animals may lawfully be killed in any one year.

SEC. 9. It shall be unlawful for any person to kill, ensnare trap, or destroy any elk, except between the first day of September and the first day of December of any year, and no person shall kill ensnare, trap, or destroy more than two of any such animals between the dates mentioned in this section.

SEC. 10. No person shall kill or wound, ensnare, or trap any beaver or kitten beaver within the State of Idaho for a period five years from and after the approval of this Act. Any person or persons offending against the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any judge or justice of the peace of any county, shall be fined in any sum not less than one hundred dollars nor more than two hundred dollars for the first offense; and for each subsequent offense shall be fined in any sum not less than one hundred dollar nor more than two hundred dollars and be imprisoned in the county jail not less than three months or more than six months.

SEC. 11. It shall be unlawful for any person, or persons, or agents or employees of any association or corporation to buy or sell the hides of any of the animals mentioned in any of the preceding sections of this Act.

SEC. 12. It shall be unlawful for any person or persons to hunt or chase with dogs any of the animals mentioned in the preceding sections or to own, keep or have in his possession any dog or dogs for such purpose.

SEC. 13. Any person or persons found guilty of violating any of the provisions of section 7 of this Act, shall be fined in a sum not less than one hundred and fifty dollars nor more than three hundred dollars, or be imprisoned in the county jail not less than three months nor more than six months, or by both such fine and imprisonment.

Any person or persons found guilty of violating any of the provisions of sections 8, 9, 11, or 12 of this Act shall be fined in a sum not less than fifty dollars nor more than one hundred dollars. *Provided*, That each and every animal killed, trapped, ensnared, or destroyed in violation of any of the provisions of this Act shall constitute a separate offense.

SEC. 14. It shall be unlawful for any person or persons to kill, ensnare, trap or destroy any quail except between the 31st day of October and the first day of December of each year.

SEC. 15. It shall be unlawful for any person or persons to kill, ensnare, trap, or destroy any partridge, pheasant, grouse, prairie chicken, sage hen or fool hen, except between the 15th day of August and the first day of December of each year *Provided* that no Mongolian pheasant shall be killed, ensnared, trapped, or destroyed for a period of three years next following the passage of this Act.

SEC. 16. It shall be unlawful for any person or persons to kill, ensnare, trap or destroy any species of wild duck, goose, or swan, between the first day of March and the fifteenth day of August of each year.

SEC. 17. It shall be unlawful for any person or persons to catch or kill any species of fish, except salmon, carp, chub, mullet, sucker, shad, white fish, and sturgeon, in any of the streams rivers lakes, reservoirs or waters lying within the State of Idaho, with any seine, net or any spear, weir fence, basket, trap, gill-net, set-net, or any other contrivance except hook and line attached to a pole or held in the hand.

SEC. 18. It shall be unlawful to use for the killing of any fish, any poisonous, deleterious, or stupefying drug, dynamite, giant powder, or other explosive at any time of the year and every person violating any of the provisions of this section, shall be deemed guilty of a felony and upon conviction shall be imprisoned not less than six months nor more than one year.

SEC. 19. It shall be unlawful for any person or persons, agent or employee of any association or corporation to buy or sell, or to expose, or offer for sale, any of the animals; birds, or fish, or any part or parts of any such animal, bird or fish protected by the provisions of this Act at any time of the year.

SEC. 20. If any person or persons, agent or employee of any association or corporation shall be found in possession of any of the animals, birds, or fish, or any part or parts of any of the animals, birds, or fish protected by this Act, between the dates within which the killing, taking, ensnaring, entrapping, or destroying of the same is declared to be unlawful, it shall be deemed prima facie evidence that such person or persons, agent or employee killed, ensnared, trapped or destroyed the same in violation of this Act. *Provided*, That the provisions of this section shall not apply to persons having in possession for preservation any stuffed birds or animals, or heads or horns of animals not taken or killed in violation of the provisions of this Act or other game laws of the State of Idaho.

SEC. 21. It shall be unlawful for any railway, express company, stage line or other public carrier, or any of their agents or employees to receive or have in their possession for transportation any of the animals, birds, or fish, or any part or parts of any animals birds or fish protected by the provisions of this Act or other laws of this State, or to transport the same after the passage of this Act. Except, that nothing in this Act shall prevent shipping or transporting in any manner, mounted heads, or stuffed birds or animals to any point within the State; *Provided*, That such birds or animals were not killed in violation of this Act or other laws of the State, or that such heads or horns were not taken from animals taken or killed in violation of this Act or other laws of this State.

SEC. 22. It shall be unlawful for the owner or owners of any sawmill, or any of the employees thereof, or any other person or persons whomsoever to deposit, throw, or in any way permit to pass into any natural stream or any lake wherein are living fish, any sawdust, or other substance that will or may tend to the destruction or driving away any fish from such waters.

SEC. 23. Every person, firm, company or corporation, maintaining or keeping up any dam, weir, or other artificial obstruction upon any of the streams of water in this State in which any food fish are wont to ascend, shall erect and maintain at such dam, weir or other obstruction, a fishway

or ladder suitable to enable the fish to pass over, through or by said obstruction.

SEC. 24. Any person or persons violating any of the provisions of sections 14, 15 and 16 of this Act shall, upon being found guilty, be fined in a sum not less than ten nor more than fifty dollars, together with costs of suit, for each and every bird killed, ensnared, trapped or destroyed, in violation of the provisions of such sections.

SEC. 25. Any person or persons guilty of catching or killing any species of fish except salmon, carp, chub, mullet, sucker, shad, white fish, or sturgeon, in any of the streams, rivers, lakes, reservoirs, or waters lying within the State of Idaho, with any seine or net, or any spear, weir, fence, basket, trap, gill net, set net, or any other contrivance except hook and line attached to a pole, or held in the hand, shall, upon conviction, be fined in a sum not less than fifty dollars, nor more than one hundred dollars, together with costs of suit; or be imprisoned in the county jail for not more than six months, or by both such fine and imprisonment.

Any person found guilty of catching any species of fish except for breeding, between the first day of November and the first day of May of the succeeding year shall upon conviction be fined in a sum not less than ten, nor more than fifty dollars, together with costs of suit, for each and every offense.

SEC. 26. Any person or persons, agent or employee of any association or corporation violating any of the provisions of section 19 and 21 of this Act, shall upon conviction thereof be fined in any sum not less than twenty-five, nor more than seventy-five dollars, together with costs of suit.

SEC. 27. Any person or persons, firm, company, or corporation guilty of violating any of the provisions of sections 22 and 23 of this Act shall upon conviction be fined in any sum not less than fifty, nor more than one hundred dollars, together with costs of suit and each and every thirty days that any such person or persons, firm, company, or corporation, shall neglect or refuse to comply with the provisions of the within named sections shall constitute a separate offense.

SEC. 28. All moneys recovered and all fines collected under this Act shall be paid to the treasurer of the county in which the suit, action or proceeding shall have commenced, or in which the offense shall have been committed; and the prosecuting attorney or the treasurer of said county, upon the payment of any fine or judgment may satisfy the same of record for the State, one-half of such money, exclusive of costs, shall be paid to any deputy warden appointed under the provisions of this Act, if said fine be recovered upon prosecution procured by him, and the other one-half shall be paid into the general school fund of the county in which such fine was recovered; *Provided*, Where such prosecution is not procured by such deputy warden, one-half of the fine, exclusive of costs shall be paid to the informer, and the other one-half shall be paid into the general school fund of the county in which the prosecution is had.

SEC. 29. It is hereby made the duty of the Fish and Game Warden and all deputies appointed under the provisions of this Act, and every sheriff, deputy sheriff, city marshal, constable and police officer within their respective jurisdictions within the State of Idaho, to enforce all the provisions of this Act, and all laws for the protection of game and fish;

and such sheriffs, deputy sheriffs, constables, city marshals, police officers, and each of them by virtue of their election and appointment, are hereby created and constituted ex-officio fish and game wardens for their respective jurisdictions; and they and each of them, and each and every fish and game warden appointed under the provisions of this Act, shall have authority to, and it shall be their duty to inspect all depots, warehouses, cold storage rooms, storehouses, store rooms, hotels, restaurants, markets and all packages or boxes held either for storage or shipment which they shall have reason to believe contain evidence of the infraction of any of the provisions of this Act. And if, upon inquiry, said officer discovers evidence sufficient in his judgment to secure a conviction of the offender, or shall have good cause to believe that such sufficient evidence exists to justify the same, he shall at once institute proceedings to punish the said alleged offender.

SEC. 30. Any Fish and Game Warden appointed under the provisions of this Act, and any sheriff, deputy sheriff, city marshal, constable or police officer may without warrant arrest any person by him found violating any of the provisions of this Act, or any other act or acts hereafter enacted and in force at any time for the protection of game and fish, and take such person or persons before a justice of the peace, probate or municipal judge having jurisdiction, who shall proceed without delay to hear, try and determine the matter and give and enter judgment according to the allegations and proof. All such actions shall be brought in the name of the State of Idaho, and shall be prosecuted by the prosecuting attorney of the county in which such action is had.

SEC. 31. In order to carry out the provisions of this Act, there is hereby appropriated out of any moneys in the general fund of the State treasury not otherwise appropriated for salary and office expenses of the State Fish and Game Warden for the year 1899 the sum of fifteen hundred dollars, and for the year 1900 the sum of fifteen hundred dollars.

SEC. 32. All acts and parts of acts now in force relative to the protection of fish and game are hereby repealed, except the act of 1899 relating to buffalo.

SEC. 33. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, March 13, 1899.

H. B. No. 272.

AN ACT

PROVIDING FOR THE ISSUANCE OF SUBPOENAS FOR ANY OFFICER OR OFFICERS FAILING TO MAKE REPORTS TO THE STATE AUDITOR, OR STATE TREASURER, WITHIN FIVE DAYS AFTER THE TIME PROVIDED BY LAW FOR THE MAKING THEREOF; DESIGNATING THE OFFICER WHO SHALL SERVE THE SAME. AND PROVIDING HOW HIS COMPENSATION SHALL BE PAID.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. In case any county or other officer of this State, who is authorized or directed by law to make certain or any reports to the State Auditor, or to the State Treasurer, or to the State Board of Land Commissioners, or to any other official or board of this State, shall fail or neglect to transmit such report, or reports, or funds, by registered mail, or draft, express or money order, within the time provided by law for the sending of such report, or reports, or funds, and in case the said

report, or reports, or funds, have not been received by the State Auditor, or State Treasurer, or any officer or board to whom said report, or reports, or funds, should be made or delivered, within five days after the last day of the time in which said report, or reports, or funds, are required by law to be transmitted or delivered, then and in that case the State Auditor, the State Treasurer, or the officer or board to whom such report, or reports, or funds, must be made as required by law, shall forthwith issue a subpoena for any officer or officers so failing or neglecting to transmit the same, requiring such officer or officers to appear forthwith before the State Auditor, or State Treasurer, or officer or board issuing said subpoena, and produce said report, or reports, or funds aforesaid.

SEC. 2. The sheriffs of the several counties are hereby designated as the officers by whom such subpoenas shall be served, and for such services said sheriffs shall be paid the same compensation as is by law provided for similar services in civil cases. The officer so failing or neglecting to transmit such report, or reports, or funds, must pay forthwith to the sheriff aforesaid the compensation for services allowed in this section, and shall be liable upon his official bond for the compensation due said sheriff.

Approved, March 4th, 1899.

H. B. NO. 275.

AN ACT

TO AMEND SECTION SEVEN (7) OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE GOVERNMENT AND MAINTENANCE OF THE PENITENTIARY AND FOR THE CARE AND CUSTODY OF STATE PRISONERS" APPROVED FEBRUARY 2, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section seven (7) of an act entitled "an act to provide for the government and maintenance of the penitentiary and for the care and custody of State prisoners" approved February 2, 1899, be amended to read as follows:

Section 7. The Board shall have authority to use the labor of the convicts in the erection of a wall around the penitentiary buildings and grounds, and in the construction of irrigating and water ditches for the purpose of bringing water upon said penitentiary grounds as in the opinion of said Board may be necessary for the proper cultivation of said grounds, and in making such other improvements and repairs to said buildings and grounds as they may deem proper and necessary, and in the performance of any labor in and about or in connection with the said penitentiary and penitentiary grounds or lands or works necessary for the improvement thereof.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved, March 9, 1899.

H. B. NO. 279.

AN ACT

FIXING THE AMOUNT PER FOLIO WHICH SHALL BE ALLOWED JUSTICES OF THE PEACE FOR THE TAKING OF TESTIMONY IN PRELIMINARY EXAMINATIONS, WHERE THE OFFENSE CHARGED IS ONE WHICH MUST BE AFTERWARDS INVESTIGATED BY THE GRAND JURY, OR PRESENTED TO THE DISTRICT COURT ON INFORMATION. AMENDING SECTION 7525 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 7525 of the Revised Statutes of Idaho be and the same is amended to read as follows:

Section 7525. If the offense charged is one which must afterwards be investigated by the grand jury, or presented to the district court upon information, the officer making the arrest, must take the defendant before the magistrate who issued the warrant but if such magistrate does not reside in the precinct where the offense was committed or the majority of the witnesses reside, the officer having the charge of the defendant must take him and the warrant, deposition, and all papers in the case before some magistrate in such precinct for hearing and examination, or if there be no magistrate in such precinct, then before some magistrate residing in some other precinct, but all hearings on preliminary examinations must, as far as possible, be had before the magistrate most convenient to the majority of the witnesses for the prosecution, unless for good cause it is ordered to be held elsewhere, and in all such cases the preliminary examinations must be had as hereinafter provided, unless such person shall waive his right to such examination, uninations the magistrate must be allowed twenty cents per folio.

SEC. 2. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved, March 13, 1899.

H. B. NO. 280.

AN ACT

PREScribing THE TIME AND MANNER OF CALLING COUNTY WARRANTS FOR PAYMENT; MAKING THE COUNTY TREASURER LIABLE ON HIS OFFICIAL BOND FOR LOSSES BY PAYMENT OF INTEREST AFTER THE DATE CALL SHOULD HAVE BEEN MADE, AND PROVIDING THAT FOR THE WILFUL VIOLATION HEREOF SUCH OFFICER SHALL BE REMOVED.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The county treasurer shall provide himself, at the expense of the county, with a bulletin board, to be not less than twenty inches wide and thirty inches long, to be painted black and across the top of which shall be painted, in white "block" letters, not less than two inches high, the words "County Warrant Bulletin." It shall be the duty of the said treasurer to keep such bulletin conspicuously, securely and permanently in place at the front door of his office, and thereupon to post in a manner which will insure continuous notice for not less than sixty days, all notices issued by him whether written or printed, calling for the presentation of county warrants for payment.

SEC. 2. Whenever there is an amount to the credit of any county fund, as shown by the books of the county treasurer, sufficient to pay the warrant or warrants next entitled to payment therefrom, the county treasurer shall immediately post at the door of his office, as provided in section one of this Act, a notice that such warrant or warrants will be paid on presentation, stating therein the number and series of any such warrants and the fund or funds upon which drawn.

SEC. 3. On the first Monday of each month, if there is a sufficient amount to the credit of any county fund or funds to pay the warrant or warrants, next entitled to be paid therefrom, and whenever it shall appear from the books of the county treasurer that there is to the credit of any county fund or funds against which there are outstanding warrants unpaid, the sum of one thousand dollars, available for the payment of said warrants, the said treasurer shall cause to be published in the manner and form required by law, notice that the warrant or warrants next entitled to be paid therefrom will be paid upon presentation. All war-

rants which have theretofore been called by posting, as provided in section two of this Act, and which remain unpaid at the time of publishing such notice, shall be included in such published notice; and, after such publication, the interest thereon shall cease after the time now provided by law, but not before.

SEC. 4. For all sums which are paid by the county treasurer as interest upon any warrant or warrants, after the earliest date at which there were sufficient funds with which to have called and paid the same, such officer shall be liable upon his official bond; and for the wilful violation of any of the provisions of this Act, the said treasurer shall be deemed guilty of neglect to perform the official duties pertaining to his office, and shall be removed therefrom as provided by law.

SEC. 5. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 6. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved, March 2, 1899.

H. B. NO. 286.

AN ACT

TO PROVIDE FOR THE PAYMENT OF OFFICERS, MEMBERS, AND EMPLOYEES AND FOR THE GENERAL EXPENSES OF THE FIFTH SESSION OF THE LEGISLATURE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the sum of twenty-five thousand dollars (\$25,000) or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the general fund of the State treasury, not otherwise appropriated, for the purpose of paying the compensation due to the officers, members, and employees, for the general expense of the fifth session of the Legislature of the State of Idaho.

SEC. 2. That the State Auditor is hereby authorized and required upon the presentation to him of the certificate of the presiding officer of the house of which the person named therein is a member, officer, or employee, that the party mentioned in the certificate is entitled to compensation to the amount therein stated to draw his warrant on the general fund for the amount so certified as due.

SEC. 3. Whereas an emergency exists, therefore this Act shall take effect and be in force from and after its passage.

Approved, Feb. 18, 1899.

H. B. NO. 289.

AN ACT

RELATING TO THE LEVYING OF SPECIAL SCHOOL TAX AND AMENDING SECTION 42 OF CHAPTER 6 OF AN ACT ENTITLED, "AN ACT TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE SCHOOLS" APPROVED FEB. 6, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 42 of chapter 6 of an Act approved February 6, 1899, be amended to read as follows:

Section 42. The regular election for electing members of the board of school trustees shall be held annually in each district on the first Monday in June at which time it shall be lawful to transact any business pertaining to schools and school interests. The clerk of said board of trustees shall cause printed or written notices to be posted specifying the time and place of holding such election and the time during which the

ballot box shall be kept open, not less, however, than three hours, and further specifying at what hour other business shall be transacted. Said notice shall be posted in three public places in the district, one of which shall be the school house, if there be one, at least ten days previous to such time of election.

If the clerk fail to give such notice, then any two legal voters residing in the district may give such notice over their own names, and such election may be held after the day fixed in this Act for such election. All elections shall be by ballot the polls shall be opened by one of the board of trustees, or by any qualified elector if no trustee be present at the time specified in the notice. If no time is specified in the notice then the polls shall be opened at one o'clock p. m. and closed at five o'clock p. m. of the same day. Said election shall be conducted as any other county elections, except that one judge and one clerk may constitute a board of election, and any trustee may administer the oath to the said judge and clerk. Said judge and clerk shall make return of such election to the county superintendent immediately, which return shall be filed in the office of the county superintendent: *Provided, further,* That it shall be lawful at such annual meeting and election on said first Monday in June to vote upon the question of whether or not any special tax shall be levied for any purpose, such as building or repairing school houses, or for the support of public schools in the district; said meeting may first decide the rate to be levied, not to exceed ten mills on the dollar of taxable property, then proceed to ballot, on which ballot shall be written or printed "Tax—Yes" or "Tax—No" and none but actual resident freeholders or heads of families of said district are entitled to vote at such election: *Provided,* That for the purpose of this Act both husband and wife are to be considered a head of a family. A separate ballot box shall be used for voting on any question of taxation or other business concerning schools and school interests, from that used in voting for trustees. If a majority of the votes polled at such election are in favor of a tax, the board of trustees must immediately make such levy and certify the fact, the date thereof, and the rate of tax levied, the year for which levied and the number of the district to the clerk of the board of county commissioners and the county assessors, but not more than one such special tax shall be levied in any one year.

Approved, March 6, 1899.

H. B. NO. 290.

AN ACT

TO AMEND SECTION 2764 OF CHAPTER 8, OF THE REVISED STATUTES OF IDAHO, PROVIDING FOR AUTHORIZING RELIGIOUS, SOCIAL, AND BENEVOLENT CORPORATIONS TO MORTGAGE OR SELL PROPERTY HELD BY THEM.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 2764 of chapter 8 of the Revised Statutes of Idaho, providing for authorizing religious, social and benevolent, corporations to mortgage or sell property held by them, be amended to read as follows:

Section 2764. Religious, social and benevolent corporations, through their directors or trustees, may mortgage or sell real property held by them whenever a majority of the members of the said corporation may so direct by their vote: *Provided,* That notice of the intended vote on the proposition be published in three newspapers of general circulation at least once in

each of the three weeks immediately preceding the vote: *Provided*, The newspapers shall be published in the county in which the said real property is located or in the judicial district in which the property is located if there be not three newspapers published in the county.

Approved, March 6, 1899.

H. B. NO. 298.

AN ACT

PROVIDING FOR THE APPOINTMENT OF A GENERAL STATE HORTICULTURAL INSPECTOR AND DEFINING THE DUTIES OF SUCH OFFICER AND OF DISTRICT STATE HORTICULTURAL INSPECTORS; AMENDING SECTIONS 4, 5, 6 AND 16 OF AN ACT ENTITLED "AN ACT TO DEFINE THE DUTIES OF THE STATE BOARD OF HORTICULTURAL INSPECTION, APPROPRIATE MONEY FOR THE EXPENSES THEREOF, AND TO PREVENT THE GIFT, SALE, DISTRIBUTION, TRANSPORTATION OR PLANTING OF INFESTED TREES, PLANTS, CUTTINGS, GRAFTS, SCIONS, BUDS OR OTHER HORTICULTURAL MATERIAL; AND TO PROVIDE FOR DISINFECTION OR DESTRUCTION OF THE SAME, AND PRESCRIBING PENALTIES FOR FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ACT" APPROVED FEBRUARY 10, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Section four of said Act is hereby amended to read as follows:

Section 4. Said Board shall divide the State into not more than ten districts, and shall appoint a horticultural inspector for each district so established. The persons so appointed shall be specially qualified for their positions by reason of practical knowledge of horticulture and the pests incident thereto. Their jurisdiction shall be limited to their respective districts: *Provided*, That said Board shall have authority and power to appoint a General State Inspector, who shall have jurisdiction throughout the entire State, and shall fix his duties and compensation; which compensation shall not exceed the sum of six dollars per day. Said inspectors shall hold their offices during the pleasure of the Board, and shall be furnished with all necessary blanks by said Board. Said Board shall make an estimate of the amount of money available for each of said districts and for the State at large, and no inspector shall incur any expense of any kind under this Act in excess of said estimate furnished him by the said State Board. The aggregate sum of all the estimates furnished to the various inspectors for any year must in no case exceed the appropriation available for carrying out this Act for such year.

SEC. 2. Section five of said Act is hereby amended to read as follows:

Section 5. Each inspector so appointed, except the General State Inspector, shall receive as compensation for his services, as such inspector, the sum of not to exceed five dollars per day for each day actually and necessarily employed in the discharge of his duties as prescribed by this Act. Such compensation shall be paid out of the general fund of the State, upon warrants drawn by the State Auditor, only after the bills presented for such services shall have been audited and approved by the secretary and a majority of the members of said Board and audited as other bills against the State of Idaho.

SEC. 3. Section six of said act is hereby amended to read as follows:

Section 6. It shall be the duty of said inspectors, either upon their own motion, or upon the complaint of interested parties, to enter and make, or cause to be made, inspections of any field, rights of way of irrigation canals or railways, public highways, orchard, nursery, fruit packing houses, store-room, salesroom, depot, or other places where fruits are grown or stored, and of fruits, trees, plants, vines, or other horticultural material within the

State, supposed to be, or liable to be, infested with fruit pests, or with their eggs, or larvae, or infested with contagious diseases injurious to fruits, plants, trees, or vines, as hereinafter provided. If upon any inspection there be found any disease or pest, eggs or larvae, of any pest injurious to fruits, plants, trees, or vines, the inspector shall notify the owner or owners, or the person or persons in charge or in possession of said places, orchards, nurseries, trees, plants, fruits, and horticultural material as aforesaid; the inspector shall require such person or persons to eradicate or destroy said injurious pests or other insects, or their eggs or larvae, within a reasonable time to be specified. Said notice shall be served in person or in writing on said person or persons, or either of them, owning or having in charge such infested place, orchard, nursery, trees, plants, vines, fruit, or horticultural articles as visited by the inspector, or it may be served in the same manner as the summons in a civil action. If the owner or owners, or the person or persons in charge or possession of any orchard or nursery, or trees or plants, or horticultural articles infested with insects or any of them, or their eggs or larvae, after having been notified as above to destroy the same, shall fail, neglect, or refuse so to do, then any and all such places, public highways, orchards, nurseries, trees, plants, vines, fruit or articles thus infested are adjudged and declared to be a public nuisance and shall be proceeded against as such; and whenever any such nuisance shall exist at any place in the State or on the property of any non-resident, or on any highway as aforesaid, or any property, the owner or owners of which cannot be found within the State, or on any property where notice has been served as aforesaid, and where the owner or those in possession shall refuse or neglect to abate such nuisance within the time specified, it shall be the duty of the district inspector within the county wherein the nuisance is to be abated, or State Inspector, or either, and he is hereby empowered to cause said nuisance to be abated at once by eradicating or destroying all said pests, or their eggs or larvae; or by disinfecting or destroying all fruit, vines, plants or other articles upon which any of said fungous diseases, pests or their eggs or larvae may be found. The expense of such proceedings shall be paid out of the general fund of the State in the same manner as above set forth for paying said inspectors. All sums so paid shall be collected against the parties owning said real estate on which such nuisance was situated, by civil suit in the name of the Board herein created, and it shall be duty of the county attorney of the county in which such real estate is situated to bring said suit; and said sum when collected shall be paid into the State treasury.

SEC. 4. Section sixteen of said act is hereby amended to read as follows. Section 16. Inexcusable neglect or refusal to comply with the orders of an inspector, made in pursuance of the provisions of this Act, shall constitute a misdemeanor and shall be punishable as provided for misdemeanors in section 12 of this Act.

SEC. 5. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 6. Whereas an emergency exists therefor this Act shall take effect and be in force from and after its passage.

Approved, March 7, 1899.

H. B. NO. 301.

AN ACT

AUTHORIZING AND EMPOWERING THE STATE BOARD OF LAND COMMISSIONERS TO ACCEPT A DEED FROM THE MORTGAGOR OF LANDS, ON WHICH A MORTGAGE HAS BEEN GIVEN OR IS HELD BY THE STATE FOR SCHOOL MONEYS LOANED; AND PRESCRIBING THE DUTIES OF THE ATTORNEY GENERAL.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That in all cases where school moneys have been advanced, furnished or loaned to companies, corporations or individuals, by the State Board of Land Commissioners, and a mortgage for the payment of same has been taken on improved farm lands, as provided by the Constitution, and the said money has become due, and remains unpaid, the State Board of Land Commissioners are hereby empowered, and they may in their discretion receive and accept from the said mortgagor a warranty deed to the property mortgaged in full satisfaction of the debt due the State upon said mortgage, and surrender the note to the mortgagor and receipt him in full for the debt due thereon.

SEC. 2. It shall be the duty of the Board to hold said land in trust for the school fund of the State, said lands shall be appraised and subject to sale or lease as by law required.

SEC. 3. The moneys received from the sale, lease, or rental of any lands as in this Act provided or by law allowed, shall be paid into the school fund of the State to be disbursed as other school moneys.

SEC. 4. In any case where any mortgage is held by the State Board of Land Commissioners for any school money due, it shall be the duty of the Attorney General, when directed by the Board of Land Commissioners, to file foreclosure proceedings in the proper court and prosecute same to judgment, and to look after and care for the State's interests in every stage of the proceedings until finally determined.

SEC. 5. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 6. An emergency existing therefor, this Act shall be in force and take effect from and after its passage.

Approved, March 6, 1899.

H. B. NO. 305

AN ACT

REPEALING SECTION 1679 REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1679 Revised Statutes of Idaho be, and the same is hereby repealed.

Approved, March 7, 1899.

H. B. NO. 308.

AN ACT

RELATING TO HOLDING OF TEACHERS' INSTITUTES AND AMENDING SECTIONS 51, 52, 53, AND 54 OF CHAPTER 8 OF ACT ENTITLED "AN ACT TO MAINTAIN A SYSTEM OF FREE SCHOOLS" APPROVED FEBRUARY 6TH, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That sections 51, 52, 53 and 54 of chapter 8 of an Act approved February 6th, 1899 be amended to read as follows:

Section 51. The county superintendent of each county in this State must hold annually a teachers' institute at such time as he may desig-

nate, and such institute must continue in session not less than five nor more than fifteen days. He must give at least ten days notice of the time and place of holding such institute by publication in some newspaper published in the county or by a written notice to each qualified teacher in the county. *Provided*, That two or more adjoining counties may unite in holding a joint institute under the joint supervision of the county superintendents of such counties.

Section 52. It is the duty of all teachers engaged in the county and of all persons holding certificates, to attend such institute and participate in the exercise thereof, and all teachers who may have charge of schools at the time of holding the annual institute must adjourn their schools for the time during which the institute is held. *Provided*, That when joint institutes are held in accordance with the provisions of section 51 it shall be the duty of all teachers in said counties and of all persons holding certificates therein, to attend such joint institute.

Section 53. All teachers who may adjourn school for the purpose of attending any annual county or joint institute must be allowed the same pay while in actual attendance, as when teaching, and the county superintendent must certify to the number of days attendance of each teacher, and the trustees of the several districts must count them as so many days lawfully employed.

Section 54. The county superintendent shall procure the services of one or more competent persons to assist in conducting said institute; he must also provide a building, lights, stationery, janitor service, and all things necessary for the holding of the institute; and must present an itemized account of such expenses not to exceed one hundred and fifty dollars, exclusive of the amount received from fees of applicants for teachers' certificates to the auditor of his county, and the county auditor shall issue a warrant in favor of the county superintendent equal to the amount of such expenses. *Provided*, In case joint institutes are held as provided in section 51, the county superintendents of the counties holding such institutes shall each present an itemized account of such expenses as aforesaid to the auditor of his county and the expenses thereof shall be borne equally by such counties, and the county auditor shall issue a warrant in favor of the county superintendent for the part chargeable against such county.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

Approved, March 7, 1899.

H. B. NO. 313.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE MANNER OF LOCATING LODE, QUARTZ AND PLACER CLAIMS; TO DETERMINE BOUNDARIES THEREOF; TO PROVIDE FOR DISCOVERY SHAFTS OR CROSS-CUTS; TO DETERMINE THE FORM OF LOCATION CERTIFICATES; TO PROVIDE FOR THE LOCATION OF ABANDONED CLAIMS, ASSESSMENT WORK, AND PROOF THEREOF, AND FOR AMENDMENT OF LOCATION NOTICES; TO PROVIDE FOR SECURITY FOR SURFACE OWNERS; TO AMEND SECTIONS 3100, 3101, 3103, 3104, 3105, AND TO REPEAL SECTION 3102, OF CHAPTER 1, TITLE 8, AND SECTIONS 3120, 3121, AND 3122 OF CHAPTER 2, TITLE 8 REVISED STATUTES OF THE STATE OF IDAHO. AND TO PROVIDE FOR RECORDER'S FEES," APPROVED FEBRUARY 14, 1899, AND TO AMEND SECTION 2, AND SECTION 6, WHICH AMENDS SECTION 3101 OF THE REVISED STATUTES OF IDAHO.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 2 of the re-enacted House Bill No. 117, ap-

proved Feb. . . , 1899, amending section 3101 of the Revised Statutes of Idaho be amended to read as follows:

Section 3101. The locator, at the time of making the discovery of such vein or lode, must erect a monument at such place of discovery, upon which he must place his name, the name of the claim, the date of discovery and distance claimed along the vein each way from such monument. Within ten days from the date of discovery, he must mark the boundaries of his claim by establishing at each corner thereof and at any angle in the side lines, a monument, marked with the name of the claim and the corner or angle it represents; also at the time of so marking his boundaries, he must post at his discovery monument his notice of location in which must be stated: First, the name of the locator; second, the name of the claim; third, the date of discovery; fourth, the direction and distance claimed along the ledge from the discovery; fifth, the distance claimed on each side of the middle of the ledge; sixth, the distance and direction from the discovery monument, to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself, the location of the claim and seventh, the name of the mining district, county and State. When from any cause, a monument can not be safely planted at the true corner or angle, it may be placed as near thereto as practicable, and so marked as to indicate the place of such corner or angle. Monuments may be made of any such material or form as will readily give notice, and when of posts or trees, they must be used (hewn) and marked upon the side facing towards the discovery, and must be at least four inches square or in diameter.

Monuments must be at least four feet high above the ground, and trees must be so hewn as to readily attract attention. At the time the locator so marks the boundaries of his claim, he may do so in any direction that will not interfere with rights or claims which existed prior to his discovery.

SEC. 2. That section 6 of re-enacted House Bill No. 117 approved February . . , 1899, amending sections 3101 of the Revised Statutes of Idaho be amended to read as follows:

Section 6. Within sixty days after any time set or period allowed for the performance of labor, or making improvements upon any lode, or placer claim, the person in whose behalf such work or improvement is performed or some person for him must make and record an affidavit in substance as follows:

State of Idaho }
County of } ss

Before me the subscribed, personally appeared ,
who being first duly sworn says that at least dollars worth of
work for improvements were performed or made upon
claim, situate in mining district, county of
State of Idaho: That such expenditure was made by, for, or at the ex-
pense of , owner of said claim
for the purpose of holding said claim and all stakes monuments or trees
marking boundaries of said claims are in proper place and positions.

Subscribed and sworn to before me this day of 189..

The fee for administering the oath and recording the foregoing affidavit,
when taken before the county recorder or deputy mining recorder shall

be fifty cents; the fee for recording the same when the oath is taken before any other officer authorized to administer oaths shall be fifty cents.

Such affidavit, or a certified copy thereof in case the original is lost shall be prima facie evidence of the performance of such labor. The failure to file such affidavit shall be considered prima facie evidence that such labor has not been done.

SEC. 3. All acts or parts of acts in conflict with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists, therefor this Act shall take effect and be in force from and after its passage.

Approved, March 13, 1899.

H. B. NO. 314.

AN ACT

CONCERNING MINING TUNNELS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any person or company who has or may hereafter have a tunnel or cross-cut, the mouth of which is located upon his own ground or upon ground in his lawful occupation, shall have the right to drive and continue the same through and across any located or patented claim in front of the mouth of such tunnel, but not to follow or drive upon any vein belonging to the owner of such claim.

SEC. 2. Each tunnel or cross-cut may be driven and worked for the purpose of drainage and for the purpose of reaching and working mining ground of the tunnel owner beyond the intersected claim. The owner or owners of any vein or any claim or claims so intersected or his duly authorized agent shall have the right to enter such tunnel upon application to the owner or owners or person in charge of said tunnel without resorting to any process of law for the purpose of making a survey and inspecting such vein or veins as may be crossed within the boundary lines of such intersected claim, and if the owner or owners of such tunnel shall, by bulk-heading, damming back or in any manner prevent the inspection or survey herein provided for, or if such owner or owners shall in any manner prevent the natural drainage of water from such intersected claim or claims without the consent of the owner or owners thereof, it shall work a forfeiture of all rights granted under section one of this Act.

SEC. 3. If any ore, the property of the owner of the claim intersected or crossed, be extracted in driving such tunnel, it shall be the property of the owner of the vein from which it was taken and the owner of the tunnel shall be liable for all actual damages or injury done to the owner of the claim crossed by his tunnel.

SEC. 4. In all actions between the tunnel owner and others involving the right to any vein discovered in such tunnel, the burden of proving that the vein so discovered is not the property of the adverse claimant in such action shall be on the tunnel owner.

SEC. 5. All acts or parts of acts in conflict with the provisions of this Act are hereby repealed.

SEC. 6. Whereas an emergency exists, this Act shall be in force and take effect from and after its passage and approval by the Governor.

Approved, March 15, 1899.

H. B. NO. 322.

AN ACT

TO AMEND SECTION 3604 (CONCERNING ISSUE OF BONDS BY COUNTIES FOR CERTAIN PURPOSES IN EXCESS OF THE INCOME OR REVENUE OF THE COUNTY FOR THE YEAR) IN SECTION ONE OF AN ACT OF THE LEGISLATURE OF THE STATE OF IDAHO, ENTITLED "AN ACT PROVIDING FOR THE ISSUANCE OF NEGOTIABLE COUPON BONDS FOR THE FUNDING AND REFUNDING OF COUNTY INDEBTEDNESS, AMENDING CHAPTER 6, TITLE 13, REVISED STATUTES OF IDAHO," APPROVED FEBRUARY 7TH, 1899, BY ADDING THERETO AUTHORITY TO ISSUE BONDS TO ASSIST ANY CITY OR VILLAGE IN CONSTRUCTING A FREE BRIDGE OVER ANY NAVIGABLE STREAM, WITHIN, OR PARTLY WITHIN, OR ADJOINING THE LIMITS OF ANY SUCH CITY OR VILLAGE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3604 in section one of an act of the Legislature of the State of Idaho, of an act entitled "an act to amend chapter six in title 13 of the Revised Statutes of Idaho," be, and it hereby is, amended so as to read as follows, to-wit:

Section 3604. When the interests of the county require it and the board of commissioners of the county deem it for the public good to bond the county to fund or refund the outstanding obligations of the county, or bond the county for the purpose of acquiring funds for purchasing a site and erecting a court house and jail or a jail thereon, or for the construction or repair of roads or bridges, or to assist any city or village in said county in constructing a free bridge over any navigable stream within, or partly within, or adjoining the limits of any such city or village, or for any one or more of said purposes, and the indebtedness or liability of the county that may be created by the bonding, funding, or refunding aforesaid, or in purchasing a site and erecting a court house and jail or a jail thereon, and for the construction or repair of roads or bridges, or for assisting any city or village in the construction of any such free bridge as aforesaid, or for any one or more of said purposes, exceeds the income or revenue of the county for that year, the board of commissioners may issue bonds of the county as provided by section 3602 of this Act; *Provided*, that the issuance of such bonds be first authorized by a vote of two-thirds of the qualified electors of the county voting at an election held for that purpose, as hereinafter provided.

And provided further, that before the board of county commissioners shall issue any bonds to fund or refund the indebtedness of the county as in this section provided, they shall deduct from the legal indebtedness of the county at the time of the issue of said bonds, the cash on hand in the county treasury applicable to the discharge of said indebtedness, and may issue bonds for the remainder of the indebtedness.

SEC. 2. That all acts or parts of acts, either general or special, inconsistent with the provisions of this Act or any part thereof, are hereby repealed.

SEC. 3. An emergency existing therefor, this Act shall be in force and effect from and after its passage and approval.

Approved, March 14, 1899.

H. B. NO. 332.

AN ACT

RELATING TO LAND ACQUIRED BY THE STATE BY FORFEITURE, FORECLOSURE OR ESCHEAT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. All lands, title to which is acquired by the State by foreclosure or otherwise, on loans of school funds, and all lands which

escheat to the State by virtue of section 5717 of the Revised Statutes or otherwise, shall be held and treated as school lands, and may be sold and disposed of in the same manner.

SEC. 2. Said lands shall be under the charge and control of the State Land Board.

SEC. 3. All acts and parts of acts in conflict herewith are hereby repealed, and whereas an emergency exists therefor, this Act shall be in force from and after its passage and approval.

Approved, March 6, 1899.

H. B. No. 333.

AN ACT

TO AMEND SECTION 7 (CONCERNING STREETS AND SIDEWALKS, SEWERS AND SPECIAL TAX THEREFOR) OF AN ACT OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF IDAHO, ENTITLED "AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON," APPROVED FEBRUARY 9, 1881, BY ADDING THERETO AUTHORITY TO GRADE, CURB, GUTTER, PAVE, MACADAMIZE OR PLANK STREETS AND ALLEYS, AND AUTHORITY TO LEVY AND COLLECT SPECIAL ASSESSMENTS UPON THE PROPERTY TO BE BENEFITED BY ANY SUCH IMPROVEMENTS AND ANY IMPROVEMENTS PROVIDED FOR IN SAID SECTION 7, AND PROVIDING FOR THE COLLECTION THEREOF UPON THE PROPERTY BENEFITED.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 7 of an act of the Legislative Assembly of the Territory of Idaho, entitled "An act to amend the charter of the city of Lewiston," approved February 9, 1881, be and it hereby is, amended to read as follows, to-wit:

Section 7. To provide for clearing, opening, graveling, grading, curbing, guttering, and paving; macadamizing, planking, improving, constructing and repairing streets, highways and alleys, and sidewalks and gutters, and for the prevention and removal of all obstructions therefrom, or from any cross or side walks, and to regulate any cellar or cellar of sidewalk, in the city; to provide for clearing streets and for constructing sewers, and cleaning and repairing the same, and to assess, levy and collect annually a road poll tax (not less than one nor more than six dollars) on every male inhabitant of the city, between the ages of 21 and 50 years, excepting persons who are a public charge; also a special tax on property not less than one, nor more than five mills per centum annually on the taxable property within the city, which taxes shall be expended for the purposes specified in this section, except sidewalks.

Said city is also empowered, for the purpose of grading, curbing, guttering, paving, repairing, graveling, macadamizing, planking or improving streets and alleys, or any of said purposes, to levy special assessments on the lots and parcels of land benefited by any such improvements in proportion to the benefits to said lots and parcels of land respectively. Unless two-thirds of the owners of the property having a frontage on any street or alley, or portion thereof, to be improved, as aforesaid, petition to make the same, such improvements shall not be made.

For the purpose of levying any such special assessment, the council shall, at a general or special meeting, by resolution, fix and describe the property which will be benefited by making such improvement, which resolution shall fix a time and place when the council will meet for the purpose of hearing objections to the inclusion of any particular parcel or parcels of land included, within the limits of the district to be benefited, and for the purpose of hearing requests for the inclusion of additional tracts or parcels of land within said district not theretofore included,

which time for such meeting shall not be less than thirty days from the date of such resolution and said resolution shall be published for not less than twenty days prior to the date of such meeting in some newspaper, daily, weekly or otherwise, published in the city of Lewiston. At such meeting for the purpose of hearing objections the council shall hear any and all evidence submitted by any parties in interest and shall modify the limits of the district to be benefited by such improvement as they shall deem such evidence to require. If the limits of the district to be benefited are modified, the council shall, by resolution, define such modifications, which resolution shall designate a time and place not less than twenty days from the date of the resolution when any person may appear before the council and object to the inclusion of any additional tract within the limits of the district to be benefited by such improvements and such resolution shall be published for not less than ten days prior to such meeting in some newspaper, daily, weekly or otherwise, published in the city of Lewiston, and at such meeting the council shall hear any and all evidence submitted against the inclusion of any such additional parcels and shall by resolution finally determine the district to be benefited by such improvements. The council shall thereupon, as soon as may be, at any general or special meeting by resolution, fix and determine the amount to be assessed against each lot or parcel of land included within said district to be benefited for the purposes of such improvement, taking into consideration the benefits derived, or injuries sustained in consequence of such improvements and the amount charged against the same, which, with the vote thereon by yeas and nays shall be spread at length upon the minutes. After the completion of the apportionment and assessment of the benefit of separate parcels and tracts of land, as aforesaid, the council shall cause to be published in some newspaper, daily, weekly or otherwise, published in said city, a notice for not less than one month, of the time and place of a meeting, general or special, of said council, at which objections would be heard to the assessments made and at such meeting, or any adjournment thereof, the council shall hear all evidence submitted in behalf of any of the parties interested and take such action as such evidence may, in the opinion of the council, require: *Provided*, That if the council at such meeting increases the amount assessed against any parcel of land, the council shall cause the city clerk to publish a notice in some newspaper published in this city, weekly, daily or otherwise, for not less than ten days prior to a meeting, general or special of said council, at which objections could be heard to any such increased assessment, at which meeting the council shall hear any evidence submitted against any such increase and shall re-adjust the assessments as such evidence shall, in the judgment of the council, require.

All such assessments shall be known as special assessments for improvements and shall be levied and collected as a separate tax in addition to the taxes for general revenue purposes, and be placed on the tax roll for collection in the same manner and subject to the same penalties and collected in like manner as other taxes of said city.

The council of said city shall, in their discretion, provide for the levy and collection of such assessments in installments instead of levying the entire assessment at one time, payable in installments of equal amounts each year, none of which said installments shall run longer than ten

years, or bear interest exceeding six per cent. per annum. All such assessments shall be made as hereinabove provided upon the property benefited, and levied and collected as hereinabove provided. The owner of any piece of property liable to any such special assessment may redeem his property from such liability by paying the entire assessment chargeable against his property (upon the city clerk, mailing him a written or printed notice) thirty days before the same is due and collectible by paying all the installments of the assessments which have been levied, and also the amount of unlevied installments, with interest on the latter at the rate of six (6) per centum per annum from the date of the maturity of the last installment. In all cases where installments of assessments not yet levied and paid, as above provided, are paid, the same shall be paid to the city treasurer, who shall receipt therefor, and all sums so paid shall be applied solely to the payment of such improvements or the redemption of the bonds issued therefor. Where any piece of property has been redeemed from liability for the cost of any improvement as herein provided, such property shall not thereafter be liable for further special assessment for the cost of such improvement, except as hereinafter provided. No suit to set aside the said special assessment or to enjoin the making of the same, shall be brought, nor any defense to the validity thereof be allowed after the expiration, of thirty (30) days from the time the amount due on each lot or piece of land liable for such assessment is ascertained and confirmed by the city council. The funds raised by such assessments shall be applied solely towards the payment for such improvements and the redemption of the bonds issued therefor.

That in all cases of special assessment for local improvements of any kind against any property, persons or corporations whatsoever wherein said assessments have failed to be valid in whole or in part for want of form or insufficiency, informality or irregularity, or non-conformance with the charter provisions or laws governing such assessments, the city council shall be and they are hereby authorized to assess such special taxes or assessments and to enforce their collection in accordance with the provisions of law existing at the time the re-assessment is made: *And it is further Provided*, That whenever, for any cause, mistake or inadvertence the amount assessed shall not be sufficient to pay the cost of the improvement made and enjoyed by owners of property in the local assessment district where the same is made, that it shall be lawful, and the city council is hereby directed and authorized to make re-assessments on all the property in said local assessment district sufficient to pay for such improvement, such re-assessment to be made and collected in accordance with the provisions of the law or ordinance existing at the time of its levy.

That nothing herein shall be construed as repealing or modifying any existing manner and method for said city to make improvements as herein provided for, but shall be construed as an additional and concurrent power and authority.

All acts or parts of acts, general or special, inconsistent with the provisions of this Act, or any part thereof, are hereby repealed.

SEC. 2. An emergency existing therefor, this Act shall be in force and effect from and after its passage and approval.

Approved, March 6, 1899.

H. B. NO. 334.

AN ACT

TO AMEND SECTION 20 (CONCERNING BORROWING MONEY AND LIMITATION OF INDEBTEDNESS) OF AN ACT OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF IDAHO, ENTITLED "AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON," APPROVED FEBRUARY 9TH, 1881, AS AMENDED BY AN ACT OF THE LEGISLATURE OF THE STATE OF IDAHO, ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON," APPROVED FEBRUARY 10TH 1881 AS AMENDED ALSO BY AN ACT OF THE LEGISLATURE OF THE STATE OF IDAHO ENTITLED "AN ACT AUTHORIZING THE CITY OF LEWISTON TO INCUR CERTAIN INDEBTEDNESS, PROVIDING THE PURPOSES FOR WHICH IT SHALL BE INCURRED AND FIXING THE LIMIT THEREOF; PROVIDING FOR THE ISSUANCE OF BONDS FOR THE PAYMENT OF SUCH OR ANY EXISTING INDEBTEDNESS, AMENDING AN ACT ENTITLED "AN ACT TO AMEND THE CHARTER OF LEWISTON APPROVED FEBRUARY 9TH, 1881," APPROVED FEBRUARY 9TH, 1899, BY INCREASING THE CAPACITY OF THE SAID CITY TO BORROW MONEY AND DEFINING THE PURPOSES FOR WHICH THE SAME MAY BE BORROWED, AND AUTHORIZING SAID CITY TO ISSUE THEREFOR ITS NEGOTIABLE BONDS WITH NEGOTIABLE INTEREST COUPONS ATTACHED, AND PROVIDING FOR THE LEVY OF TAXES TO PAY THE PRINCIPAL AND INTEREST OF SUCH BONDS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 20 of an act of the Legislative Assembly of the Territory of Idaho entitled "An act to amend the charter of the city of Lewiston," approved February 9th, 1881, as amended by an act of the Legislature of the State of Idaho, entitled "An act to amend an act entitled an act to amend the charter of the city of Lewiston," approved February 10th, 1881, and as amended by an act of the Legislature of the State of Idaho entitled "An act to amend an act to amend the charter of the city of Lewiston," approved February 10th, 1893 be, and is hereby amended to read as follows:

Section 20. That said city of Lewiston shall have power and authority to borrow money and issue therefor its negotiable bonds with negotiable interest coupons attached not to exceed at any time in the aggregate fifteen (15) per cent. of the value of all taxable property in the said city as shown by the last preceding assessment roll of said city, for any or all of the following purposes:

FIRST. To provide for the purchase or construction and maintenance of necessary water works and supplying the same with water, and to provide for lights for streets, public buildings and grounds.

SECOND. To provide for the laying, constructing, equipment and maintenance of sewers and drains.

THIRD. To provide for the grading, paving, constructing and laying out of streets and alleys.

FOURTH. To provide for the funding, refunding, purchase and redemption of the outstanding indebtedness of said city, either at this time, or any future time.

FIFTH. To provide for establishment and maintenance of hospitals, pest houses, and cemeteries, either within or without the corporate limits of said city.

SIXTH. To provide for the purchase, improvement, equipment and maintenance of lands for the use of public parks either within or without the corporate limits of said city.

SEVENTH. To provide for the construction, erection of public buildings, and building sites for the use of said city: *Provided*, that said city may join with the State of Idaho, or any municipal corporation or subdivision of the State of Idaho in the purchase, erection, construction and furnishing of any public building and building sites, and issue bonds for

such proportion of the cost thereof as the council shall judge to be the proportion thereof which shall be used and utilized by the said city.

EIGHTH. To provide for the establishment, equipment and maintenance of a fire department, and for the purchase of suitable and necessary apparatus and buildings and building sites for the use thereof, and for all other necessary public improvements.

NINTH. To provide for the purchase or construction and maintenance of any bridge or bridges across either Snake or Clearwater rivers.

TENTH. To provide for the grading, curbing, guttering, paving, macadamizing or planking streets and alleys, and to levy and collect special assessments upon the property to be benefited thereby.

Section 20-a. Whenever the common council of said city shall deem it advisable to issue negotiable coupon bonds of said city for any of the purposes aforesaid, the mayor and common council of said city shall provide therefor by ordinance which shall specify the purpose of issuance of such proposed bonds; if it is to create a new debt the object thereof must be stated, or if it is to fund or refund any existing indebtedness, it must be described; and when it consists of warrants or other securities, they must be described by giving their number, date, and amount, and the fund out of which the same, according to the terms thereof, are payable; and the ordinance shall declare the purpose and the total amount for which such bonds shall be issued, and designate the provisions to be made to pay the interest on such bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within 20 years from the time of the issuance of the same, and shall also provide for the holding of an election of the qualified electors of said city who are taxpayers of said city, of which thirty (30) days' notice to be provided for in such ordinance, shall be given in a newspaper in said city designated in said ordinance. Said election shall be conducted as other city elections. The voting at said election must be by ballot and the ballots used shall be substantially as follows: "In favor of issuing bonds to the amount of— ———dollars" for the purpose stated in ordinance No. ———; and against issuing bonds to the amount of— ———dollars for the purpose stated in ordinance No. ———." If at said election as provided for in this Act, two-thirds of the qualified electors who are taxpayers in said city, voting at said election, assent to the issuing of said bonds, and the incurring of the indebtedness thereby created for the purposes aforesaid, said bonds for said purposes shall be issued in the manner hereinafter provided.

Section 20-b. Said bonds shall be known as municipal coupon bonds of the city of Lewiston in Nez Perce County, State of Idaho, and shall be issued as near as practicable in denominations of one thousand (\$1000.00) dollars each, but bonds of the denomination of five hundred (\$500.00) dollars and one hundred (\$100.00) dollars may be issued when necessary. Said bonds to be made payable within twenty (20) years from the date of issue thereof. Said bonds must bear interest at a rate not exceeding six per centum per annum, to be paid on the 1st day of January and the 1st day of July in each year at the office of the city treasurer, or at such banking house or trust company in the city of New York as may be designated by the mayor and common council of said city, at the option of the holder thereof. Such bonds shall be redeemable at the pleasure of said city at any time after the expiration of ten (10) years from the date

of the issuance thereof, and each bond must be redeemed in the order it is numbered.

Section 20-c. The bonds mentioned in the preceding section must be attached thereto, when negotiated, semi-annual interest coupons, covering the interest expressed in the bond from the date of issue until paid. Such bonds must be signed by the mayor and attested by the clerk of said city and bear the seal thereof and be countersigned by the treasurer thereof, and the coupons attached thereto must be signed by said treasurer. Each coupon must have annexed to the same a number corresponding with the number of the bond and each bond must state upon its face the amount for which it was issued, the date of issue, and be made payable to a person named or to bearer, and must recite that it is issued by virtue of and in conformity and compliance with the provisions of this Act and of the constitution and all other laws of the State of Idaho, and shall have a copy of this Act printed on the back thereof.

Section 20-d. The said mayor and common council must give notice by publication in some newspaper published in said city—if a weekly paper in four issues thereof; if in any other paper for four weeks—of its intention to issue and negotiate such bonds and invite bidders therefor and after ascertaining the best terms upon, and the lowest interest at, which such bonds can be negotiated, must secure the proper engraving or printing thereof, and thereafter have them consecutively numbered, and otherwise properly prepared and executed; and when so executed they must each be by the clerk of said city registered in a public record book, to be kept for that purpose, and therein must be stated the number, date and amount of each bond, time and place of payment, rate of interest and number of coupons attached. Then said mayor and common council must from time to time, in such amounts as they may deem best, deliver said bonds to the treasurer of said city, and take and file receipt therefor and charge him therewith; and any duties required of said mayor and common council may be performed at any general, special, or called meeting thereof. The said treasurer must, under the general supervision of said mayor and common council, deliver said bonds to the purchaser or purchasers thereof and in no case must said bonds be sold for less than their face or par value, and the accrued interest at the time of disposal. Said bonds may be issued in case of funding or refunding in exchange for, or on cancellation of, an equal amount of prior indebtedness being funded or refunded. Said bonds and all proceeds derived from sale thereof must be applied exclusively to the purposes for which said bonds are issued. Said city treasurer must keep a record of all bonds disposed of, showing their number, date of interest, date and amount of sale, and when and where payable, which record must be kept open for the inspection of the public at all reasonable office hours, and he must make detailed statements to and as often as required by, said mayor and common council of all his transactions under the provisions of this Act.

Section 20-e. The mayor and common council must upon the issue of said bonds, by ordinance, direct to be levied, and must thereafter levy annually, upon all the taxable property of said city a sufficient sum to pay the interest on all bonds to be disposed of under this statute, as it falls due, and a sufficient additional sum to constitute a sinking fund for the payment of the principal of the said bonds within twenty (20) years from the

date of issue of the same. And all such taxes must be levied, assessed and collected as other city taxes until the bonds so issued are fully paid, including the interest thereon. The faith, credit and all taxable property within the limits of said city as they now exist, or may hereafter be extended, are, and must continue pledged, and the proper officers of said city must continue to assess and collect on all the taxable property within the limits thereof, the necessary taxes to pay said bonds and interest, as the same become due. Should the tax for the payment of interest on, or bonds issued under, the provisions of this Act, at any time not be collected in time to meet such payment, the interest must be paid out of any moneys in the city general or expense fund, and the money so used for such payment of interest must be repaid to the fund from which so taken, out of the first moneys paid therein.

Section 20-f. It shall be the duty of said treasurer in case of sale of bonds to use the proceeds arising from the sale of said bonds in payment of the indebtedness described in said ordinance only. Any failure of any of the officers of said city to comply with any of the provisions of this Act shall be deemed a misdemeanor, and any such officer shall be fined in an amount not exceeding the sum of three hundred dollars, and imprisonment in the city jail not exceeding six months.

Section 20-g. That when bonds are issued under this Act for the purpose of funding, refunding, purchase or redemption of the outstanding indebtedness of said city to the profit and benefit of said city, the same may be issued without the submission of the question of the issuance thereof to the electors of said city.

Section 20-h. All acts and parts of acts, either special or general, in conflict with the provisions of this Act, are hereby repealed.

Approved, March 6, 1899.

H. B. NO. 335.

AN ACT

TO AMEND SECTION 4 (CONCERNING FIRE DEPARTMENT, TAXES FOR AND FIRE HYDRANTS) OF AN ACT OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF IDAHO, ENTITLED "AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON," APPROVED FEBRUARY 9, 1881 AS AMENDED BY AN ACT OF THE LEGISLATURE OF THE TERRITORY OF IDAHO ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON" APPROVED FEBRUARY 10, 1881, BY EXTENDING THE POWER OF THE SAID CITY TO REGULATE THE ERECTION OF WOODEN BUILDINGS WITHIN FIRE LIMITS, ENTRANCES AND EXITS AND FIRE ESCAPES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 4 of an act of the Legislative Assembly of the Territory of Idaho, entitled, "An act to amend the charter of the City of Lewiston" approved February 9, 1881 as amended by an act of the Legislature of the Territory of Idaho entitled "An act to amend an act entitled an act to amend the charter of the City of Lewiston", approved February 10th, 1881, be and is hereby amended to read as follows:

Section 4. To make regulations for the prevention of accidents by fire; to organize and establish fire departments, and provide for the government of the same; to provide fire engines and other apparatus and a sufficient supply of water and to levy and collect special taxes for this purpose, not to exceed one-fifth of one per centum annually, upon the taxable property within the city; and on petition of the owners of one-half the ground included within any prescribed limits within the city to prohibit the erection within such limits of any building, or addition to

any building, unless the outer walls thereof be made of brick and mortar, or iron, or stone and mortar, or other fire-proof material; and to provide for the removal of any building or any addition erected contrary to law.

To prohibit the erection or repair of wooden buildings within the fire limits, and to restrict and limit the height of buildings within such limits; to provide for and determine the number of places of entrances and exits from all public halls, theatres, opera houses, churches and other buildings used for public gatherings, and the modes of hanging doors thereat, and to regulate the plumbing and sewerage of all buildings within the city and to require adequate fire escapes, apparatus and appliances for protection against fire including hydrants of no less size than $\frac{3}{4}$ in. pipe with rubber hose attached thereto, of good and serviceable quality with nozzle of like size; said hydrant to be connected with a city water main to be provided in such buildings.

SEC. 2. All acts and parts of acts, either special or general, in conflict with the provisions of this Act are hereby repealed.

SEC. 3. An emergency existing therefor, this Act shall be in force and effect from and after its passage and approval.

Approved, March 6, 1899.

H. B. NO. 338.

AN ACT

TO PREVENT THE SPREAD OF CONTAGIOUS DISEASES.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. The owner, or agent of the owner, of a house in which a person resides who has the small-pox, diphtheria, scarlet fever or any other contagious or infectious disease, dangerous to the public health, and the physician called to attend the person or persons so affected shall, within twenty-four hours after becoming cognizant of the fact, give notice thereof to the clerk of the board of trustees of the school district in which said person so afflicted resides, and said person so afflicted shall be kept away and apart from all other persons except those whose presence may be necessary to the physical or spiritual wellbeing of such person or persons.

SEC. 2. The school trustees of the various school districts in the State shall not allow any pupil to attend the public schools while any member of the household to which such pupil belongs is sick of small-pox, diphtheria, scarlet fever or other contagious or infectious disease, dangerous to the public health, or during the period of two weeks after the death, recovery, or removal of such sick person; and any pupil coming from such household shall be required to present, to the teacher of the school the pupil desires to attend, a certificate, from the attending physician of the facts necessary to entitle him to admission in accordance with the above regulations.

SEC. 3. Whenever any text-book or books, belonging to any school district, shall be in any house during the time that pupils residing in such house are prevented from attending the public school in accordance with the provisions of this Act, such book or books shall not be returned to such public school until the same shall have been thoroughly disinfected under the direction of the attending physician who shall certify the same to the teacher of said school, or to the clerk of the board of trustees in case the school is not in session at such time.

SEC. 4. Any school trustee or other person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor.

SEC. 5. Whereas an emergency exists therefor, this Act shall be enforced from and after its passage.

Approved, March 13, 1899.

H. B. NO. 343.

AN ACT

ESTABLISHING QUARANTINE AGAINST DISEASED SHEEP, PRESCRIBING THE DUTIES OF GOVERNOR IN RELATION THERETO, AND PROVIDING PENALTIES FOR THE INFRACTION OF ITS PROVISIONS.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Whenever the Governor of the State of Idaho has reasons to believe that scab or any other infectious disease of sheep has become epidemic in certain localities in any other State or Territory, or that conditions exist that render sheep likely to convey disease, he must thereupon by proclamation, designate such localities and prohibit the importation from them of any sheep into the State, except under such restrictions as, after consultation with the State Sheep Inspector, he may deem proper.

Any person or corporation who, after publication of such proclamation, receives in charge any such sheep from any of the prohibited districts and transports, conveys or drives the same to and within the limits of any of the counties of this State, is punishable by fine not exceeding \$1000, nor less than \$200, and is liable for all damages that may be sustained by any person by reason of the importation or transportation of such prohibited sheep.

SEC. 2. Upon issuing such proclamation, the owners or persons in charge of any sheep being shipped into Idaho, against which quarantine has been declared, must forthwith notify the deputy inspector of the county into which such sheep first come, of such arrival, and such owner or persons in charge must not allow any sheep so quarantined to pass over or upon any public highway, or upon the ranges occupied by other sheep, or within five miles of any corral in which sheep are usually corralled until such sheep have first been inspected, and any person failing to comply with the provisions of this section is punishable as provided in section one of this Act and is liable for all damages sustained by any person by reason of the failure to comply with the provisions of this section.

SEC. 3. Whereas an emergency exists, this Act shall be in force from and after its passage.

Approved, March 13, 1899.

H. B. NO. 347.

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE BOARD OF EQUALIZATION, AND AMENDING SECTION 1488 OF THE REVISED STATUTES OF IDAHO, AS AMENDED.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1488 of the Revised Statutes be amended so as to read as follows;

Section 1488. The State Board shall equalize the valuations of property throughout the State as follows:

FIRST. By classes, as shown by the abstracts transmitted from the various counties, county by county, and in such equalization said board shall have power to increase the total valuation of any class of property

in any county as shown by the abstract from that county when in the opinion of the Board the valuation of that class, appearing in such abstract, is not just and equal as compared with the valuation of other classes of property in that county, or other counties, because of its being less than the true valuation, as determined by such comparison and the said Board shall have power to decrease the valuation of any class of property, when in the opinion of the Board the valuation of that class of property, appearing in the abstract is not just and equal, as compared with other classes of property in that county, or other counties, because of its being in excess of the true valuation as determined by such comparison.

SECOND. The State Board shall have power to add to, or deduct from the aggregate valuation, as shown by such abstracts, of all property in any county such a percentage of such aggregate valuation as may be necessary in the opinion of the Board to establish uniformity and equality of valuations among the several counties of the State.

The rate of the percentage of increase or decrease made by the Board, either in equalizing among the classes of any county or in equalizing the aggregates of the counties shall, in all cases be even and not fractional. The increase or decrease made by the Board in equalizing among the counties by aggregate, shall, in no case increase or decrease the total valuation of the State, as shown by the total sum of all the valuations as stated in the abstracts returned, by an amount exceeding 15 per centum of said total aggregate valuation of the State.

THIRD. The State Board of Equalization shall have power to require the attendance of the assessors of the various counties of the State at such times and places as may be required by said Board to assist the Board in its duties and the necessary expenses of said assessors in attending such meetings shall be a county charge.

FOURTH. The State Board of Equalization for the purposes of considering questions of taxation with the assessors of the several counties of the State, and for such other business as may be brought before the Board shall meet on the third Monday of January in each year, and at such other times as the chairman of the Board may designate, but no taxes shall be equalized at said meetings.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 3. Whereas an emergency exists therefor, this Act shall be in force and effect from and after its passage.

Approved, March 13, 1899.

H. B. NO. 348.

AN ACT

RELATING TO EQUALIZING THE ASSESSMENT OF PROPERTY; PROVIDING PENALTIES AGAINST THE ASSESSOR FOR FAILING TO ASSESS PROPERTY FOR TAXATION AND FOR ASSESSING SUCH PROPERTY BELOW A FAIR CASH VALUE; DEFINING THE DUTY OF PROSECUTING ATTORNEYS; AND AMENDING SECTIONS 1475 AND 1483 OF THE POLITICAL CODE AS AMENDED BY AN ACT ENTITLED "AN ACT RELATING TO REVENUE, AMENDING SECTIONS 1426, 1428, 1429, 1430, 1451, 1453 OF CHAPTER V, AND SECTIONS 1500 AND 1501 OF CHAPTER VI, AND SECTIONS 1515, 1523, 1524, 1525, 1530, 1536, 1547, 1548, 1553, 1554, 1567, AND 1573 OF CHAPTER VII, ALL IN TITLE X. ALSO AMENDING SECTIONS 1845, 1846, 1847, AND 1848 OF ARTICLE III, AND SECTIONS 2180 OF CHAPTER VI, ALL OF ARTICLE XI; ALSO ADDING TO CHAPTER V, OF TITLE X THE FOLLOWING SECTIONS: 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, AND 1496; ALSO ADDING TO CHAPTER XI, OF TITLE X SECTION 1712, AND REPEALING SECTION 1124 OF CHAPTER V, OF TITLE VI, AND

SECTION 1462 OF CHAPTER IV OF TITLE X, ALL OF THE POLITICAL CODE OF THE STATE OF IDAHO" APPROVED FEBRUARY 16TH, 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1475 of the Political Code of the State of Idaho, as amended, be amended to read as follows:

Section 1475. The board of county commissioners of each county within the State of Idaho, shall meet on the second Monday of July in each year, to examine the assessment roll, and shall equalize the assessment of property for taxation within their respective counties. It is hereby made the duty of the board of county commissioners, at such meeting to enforce and compel an assessment of the property within their respective counties, at a fair cash value, and in so doing such board of county commissioners shall examine such assessment roll name by name, together with the valuation of property of each taxpayer assessed, and shall raise or cause to be raised any assessment of property, which in the judgement of the board, has not been assessed at a fair cash valuation. Such board must continue in session for the purpose of equalizing such assessment, until the business of equalization is disposed of.

SEC. 2. That section 1483 of the Political Code of the State of Idaho as amended, be amended to read as follows:

Section 1483. During the session of the board of county commissioners sitting as a board of equalization, it may direct and require the assessor to assess any taxable property that has escaped assessment, increase any valuation, or add to the amount, number, quantity, or value of any property, when a false inaccurate or incomplete list has been furnished or rendered; and in making such alterations, additions or new assessments, he shall note the previous assessments "cancelled" and such new entries, with the alterations and additions, shall be deemed the true assessment of the property affected thereby. When any assessment made by the assessor is deemed by the board so incomplete or inaccurate as to render doubtful the collection of the tax thereon, the board shall direct him to make a new assessment thereof, as heretofore provided, marking such defective assessment "cancelled." All persons whose assessment is altered, modified or affected in the amount of valuation of property charged to them, shall be notified by the clerk of said board, by letter deposited in the United States mail, post-paid and addressed to such person interested, at least ten days before the final action is taken in fixing and equalizing such assessment, of the day fixed when he may be heard upon the matters affecting the assessment of his property for taxation, which shall be on the fourth Monday in July of each year, or as soon thereafter as he can be heard or his matter be reached.

SEC. 3. If any property shall ultimately escape taxation for any year, and such fact shall be made known to the board of county commissioners before final settlement and payment of salary due to any assessor during whose administration such property was not assessed, it shall be the duty of the board to deduct from any amount when due or to become due such assessor, as salary or otherwise, the amount of taxes on the property not assessed: *Provided*, however, that the assessor shall be subrogated to the lien of the State and county for such taxes, and may re-imburse himself for the amount of such taxes by enforcing such lien in a proper action, or may have a personal action for the recovery of same with costs of such suit.

SEC. 4. If any assessor shall wilfully or knowingly list, or assess, or shall suffer to be listed, assessed or returned upon the assessment roll of his

county, any property, real or personal, at an amount or value less than its fair cash valuation, he shall be and is hereby declared to be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred dollars, nor more than three hundred dollars for each offense. One-half of any such fine collected shall be paid to the person or persons informing against and prosecuting such violation of the law, and the other one-half shall be paid into the county treasury for the use of the general school fund of the county where such conviction is had.

SEC. 5. It is hereby made the duty of the prosecuting attorney of each county, upon information of any taxpayer in his county, corroborated by one reputable witness, to prosecute all violations of the preceding section; and if he shall fail or refuse to prosecute such violation of the law upon such information, he is hereby declared to be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than three hundred dollars. Seventy-five per cent of any fine collected shall be paid to the person or persons who informs against and carries on such prosecution, and twenty-five per cent thereof shall be paid to the county treasury for the use of the general school fund of the county where such conviction is had. The attorney who may be employed in the conduct of such prosecution is hereby vested with all the powers of the prosecuting attorney for the county for the purposes of such prosecution.

SEC. 6. That sections 1475 and 1483 of the Political Code of the State of Idaho, and all other acts or parts of acts in conflict herewith are hereby repealed.

SEC. 7. Whereas an emergency existing, this Act shall take effect from and after its passage and approval.

Approved, March 13, 1899.

H. B. NO. 349.

AN ACT

RELATING TO TAXES AND REVENUE AND TO AMEND SECTION 1411 OF THE REVISED STATUTES AS THE SAME HAS BEEN AMENDED BY THE ACT OF FEBRUARY 16TH. 1899.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1411 of the Revised Statutes of Idaho be amended to read as follows:

Section 1411. The board of county commissioners of each county must on the second Monday of September annually ascertain the rate of State taxes necessary to be levied in order to secure the amount apportioned to such county by the State Board of Equalization, as certified by the State Auditor on each one hundred dollars of taxable property in said county, as shown by the last assessment, and must levy the same and at the same time fix the rate of taxes to be levied for county purposes, which shall not, inclusive of the amount required to be paid to the State, as State tax, exceed one and one-half per cent. of the value of the property assessed, designating the number of cents on each one hundred dollars of taxable property levied for each purpose and levy the same, and at the same time said commissioners, unless provision shall have been made for funding, refunding, or exchange of the outstanding county warrant indebtedness, as provided by chapter VI of title XIII of the Revised Statutes of the State of Idaho as amended, must whenever any county shall have warrants outstanding and unpaid, for the payment of which there are no funds in the county treasury, in addition to the other taxes

provided by law, if such warrants amount to a sum equal to five per cent. or more of the value of the taxable property of such county, as shown by the last preceding assessment, they must levy a special tax of ten mills on the dollar as shown by such preceding assessment; if such warrants amount to a sum equal to four per cent. and less than five per cent. of such taxable property, they must levy a special tax of eight mills on the dollar, as shown by such preceding assessment; if such warrants amount to a sum equal to three per cent. and less than four per cent. of such taxable property, they must levy a special tax of six mills on the dollar, as shown by such preceding assessment; if such warrants amount to a sum equal to two per cent. and less than three per cent. of such taxable property, they must levy a special tax of four mills on the dollar as shown by such preceding assessment; if such warrants amount to one per cent. and less than two per cent. of such taxable property, they must levy a special tax of two mills on the dollar, as shown by such preceding assessment; and, if such warrants amount to less than one per cent. of such taxable property, they must levy such special tax on the dollar as shown by such preceding assessment as shall be sufficient to pay such warrants.

All moneys arising from such special tax shall be placed in a special fund for the redemption of such warrants, which shall be paid exclusively out of said fund, which shall be known as the warrant redemption fund. All moneys in the county treasury at the end of each fiscal year, not needed for current expenses, and applicable thereto, shall be transferred to said warrant redemption fund.

SEC. 2. That the State Board of Equalization is hereby directed and instructed to assess and raise the valuation of railroad, telegraph, and telephone property throughout the State in proportion to the amount that the valuation of other property is increased under the provisions of this Act.

SEC. 3. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 4. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage and approval.

Approved, March 13, 1899.

H. B. NO. 353

AN ACT

TO AMEND SECTION 1 OF AN ACT TO REGULATE THE COMPILING OF ABSTRACTS OF TITLE IN THE STATE OF IDAHO, AND TO PROVIDE FOR THE INTRODUCTION OF THE SAME IN CIVIL ACTIONS.

Be it enacted by the Legislature of the State of Idaho:

That section 1 of "an act entitled an act to regulate the compiling of abstracts of title in the State of Idaho, and to provide for the introduction of the same in civil actions" be and the same is hereby amended to read as follows:

Section 1. It shall be a misdemeanor for any person or persons to engage in the business of compiling of abstracts of title to real estate, in the State of Idaho, and demand and receive pay for the same, without first filing in the office of the probate judge of the county in which such business is conducted, a bond to the State of Idaho, in the penal sum of ten thousand dollars, with not less than three sureties, residents of the county, conditioned for the payment by such abstracters of any or all

damages that may accrue to any party or parties, by reason of any error, deficiency or mistake in any abstract or certificate of title, made and issued by such person or persons.

SEC. 2. All acts and parts of acts in conflict with this Act are hereby repealed.

SEC. 3. An emergency existing therefor, this Act shall take effect and be in force from and after its passage.

Approved, March 14, 1899.

H. B. NO. 354.

AN ACT

MAKING APPROPRIATIONS FOR THE PAYMENT OF OFFICERS AND EMPLOYEES, AND THE GENERAL EXPENSES OF THE STATE GOVERNMENT FOR THE PERIOD COMMENCING ON THE FIRST MONDAY OF JANUARY, A. D. 1899, AND ENDING THE FIRST MONDAY OF JANUARY, A. D. 1901.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the following sums of money or so much thereof as may be necessary, are hereby appropriated out of any money in the State treasury not otherwise appropriated, for the payment of the salaries of the State officers and employees and the expenses of the State government for the period commencing the first Monday of January, A. D. 1899, and ending the first Monday of January, A. D. 1901, to be paid out of the general fund of the State unless herein otherwise specially stated:

Governor—Salary six thousand dollars; salary executive secretary one thousand eight hundred dollars; postal expenses two hundred and fifty dollars; telegraphing two hundred and fifty dollars; stationery and printing three hundred dollars; traveling expenses five hundred dollars; incidentals fifty dollars.

Treasurer—Salary two thousand dollars; salary of deputy two thousand dollars; printing and stationery four hundred dollars; postage, telegraphing and express three hundred dollars.

Auditor—Salary three thousand six hundred dollars; salary of clerk two thousand eight hundred dollars; printing and stationery one thousand one hundred dollars; postage, telegraphing and express five hundred dollars; incidentals fifty dollars.

Attorney General—Salary four thousand dollars; salary of clerk one thousand eight hundred dollars; postage, expressage and telegraphing two hundred and fifty dollars; printing five hundred dollars; stationery two hundred and fifty dollars; entering suits two hundred and fifty dollars; traveling expenses and incidentals three hundred dollars.

Superintendent of Public Instruction—Salary three thousand dollars; traveling expenses eight hundred dollars; salary of clerk eighteen hundred dollars; postage, expressage and telegraphing three hundred dollars; printing biennial reports three hundred and fifty dollars; printing, miscellaneous, three hundred dollars; printing school laws, two hundred and fifty dollars; printing course of study, two hundred dollars; stationery and office expenses, etc., two hundred and fifty dollars.

Secretary of State—Salary three thousand six hundred dollars; salary of clerk three thousand six hundred dollars; postage, telegraph and express five hundred dollars; printing and stationery, five hundred dollars; publishing journals and laws four thousand dollars; revenue stamps one hundred and fifty dollars; lithographing two hundred and fifty dollars; printing special laws five hundred dollars.

Supreme Court—Salary of Judges eighteen thousand dollars; salary of clerk five thousand dollars; reporter and stenographer one thousand five hundred dollars; bailiff, crier and messenger one thousand five hundred and fifty dollars; printing and stationery four hundred and fifty dollars; postage one hundred and fifty dollars; traveling expenses one thousand two hundred dollars; rent of office at Lewiston and Pocatello, with incidentals, one thousand dollars; calendar fifty dollars.

District Courts—Salaries thirty thousand dollars; salaries of stenographers ten thousand dollars; judges traveling expenses five thousand dollars.

Capitol Building—Maintenance for and grounds nine thousand one hundred and sixty dollars.

Insane Asylum—General expenses seventy-five thousand dollars; improvements five thousand dollars.

Penitentiary—General expenses seventy thousand dollars.

Land Department—General expenses twenty thousand dollars.

State Engineer—Salary three thousand dollars; traveling expense five hundred dollars; stationery and postage two hundred dollars; rent forty dollars; map cases seventy-five dollars; publishing irrigation laws for distribution by State Engineer, three hundred dollars.

Normal Schools—Lewiston fifteen thousand dollars; Albion thirteen thousand dollars.

Soldiers' Home—General expenses ten thousand dollars.

Librarian—Salary of eighteen hundred dollars.

Mine Inspector—Salary two thousand four hundred dollars; traveling expenses two thousand dollars; collecting and compiling reports five hundred dollars.

Militia—Adjutant General's salary one thousand dollars; general expense five hundred dollars; State escort for the remains of Major McConville to Lewiston, three hundred dollars.

Deaf, Dumb and Blind—Twelve thousand dollars.

State University—General expense twenty thousand dollars.

Horticulture—Inspector seven thousand dollars; publishing five hundred dollars.

Sheep Inspector—Eight hundred dollars.

Board of Pardons—Three hundred dollars.

Board of Equalization—Three hundred dollars.

Insurance State Library—Four hundred dollars.

Official bonds—Eight hundred dollars.

SEC. 2. The fees and salaries of all State officers and employes mentioned in section one of this Act shall be full compensation for all services rendered the State by such officers and employes during the years beginning on the first Monday in January, 1899, and ending on the first Monday in January, 1901.

SEC. 3. The amount of moneys derived from funds created by law for specific purposes, are hereby appropriated for said purposes.

SEC. 4. The State Auditor is hereby authorized and required upon presentation of the proper voucher, approved by the State Board of Examiners, as required by law to draw his warrant on the stated fund and against the appropriations as made in the preceding sections of this Act in favor of the party entitled thereto.

SEC. 5. Each State officer and each board entitled to draw against

the appropriations provided for in this Act, shall keep an itemized account of all expenditures made by them and report the same with vouchers to the committee on State affairs and federal relations of the House of Representatives at the next regular session of the Legislature.

SEC. 6. No officer or employee in the service of the State shall have power to create any deficiency in excess of any appropriation made by law, except in case of actual necessity and only then upon the written authority, first obtained of the Governor, Secretary of State, Attorney General, or a majority thereof, and any indebtedness attempted to be created against the State in violation of the provisions of this Act shall be absolutely null and void.

SEC. 7. Whereas an emergency exists therefore this Act shall take effect and be in force from and after its passage.

Approved, March 15, 1899.

H. B. NO. 355.

AN ACT

TO AMEND SECTION 3 OF "AN ACT TO AMEND THE CHARTER OF THE CITY OF LEWISTON," APPROVED FEBRUARY 9, 1881, BY ADDING TO SAID SECTION 3, A PROVISION ENABLING THE CITY OF LEWISTON, IDAHO, TO LEVY A TAX FOR PURPOSE OF READING ROOM AND LIBRARY IN ADDITION, IF NECESSARY, TO THE ONE AND ONE-HALF PER CENT. PER ANNUM ANNUALLY ON THE PROPERTY ASSESSED.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 3 of "An act to amend the charter of the city of Lewiston," approved February 9, 1881, be and it hereby is amended so as to read as follows:

Section 3. Said city has the power to assess, levy and collect taxes for general municipal purposes, not to exceed one-half per centum per annum, upon all property, both real and personal within the city limits which is by law taxable for State and county purposes, and to levy and collect special taxes as hereinafter provided; but all taxes for general and special municipal purposes, exclusive of assessments, as hereinafter provided, shall not exceed one and one-half per centum annually on the property assessed: *Provided, however,* That said city shall also have power to assess, levy and collect annually in addition to said one and one-half per centum annually, if necessary, a tax in such an amount as the council shall deem necessary, not exceeding one half of one per cent., for the purpose of maintaining or assisting in maintaining a reading room and library in said city.

SEC. 2. An emergency existing therefor, this Act shall be in force and effect from and after its passage and approval.

Approved, March 13, 1899.

H. B. No. 358.

AN ACT

TO PROVIDE FOR THE ISSUE OF STATE BONDS FOR THE CONSTRUCTION, IMPROVEMENT AND FURNISHING OF THE PUBLIC BUILDINGS OF THE STATE, AND THE IMPROVEMENT OF THE GROUNDS ADJACENT THERETO, AND CREATING A SINKING FUND AND PROVIDING FOR ITS INVESTMENT.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That for the purpose of providing money for the finishing and furnishing the State University of Idaho, improving the Idaho State Penitentiary, building and furnishing a hospital and other improvements for the Soldiers' Home, and repairing and improving the Capitol Building,

a loan of forty-nine thousand (\$49,000) dollars is hereby authorized to be negotiated by a board, consisting of the Governor, Treasurer, Secretary of State, and Attorney General of the State of Idaho, on the faith and credit of the State of Idaho.

The Treasurer of the State is hereby authorized, empowered and directed immediately on the passage of this Act to issue forty-nine (49) bonds of the State of Idaho, to be known as Idaho improvement bonds, in the sum of one thousand (\$1000) dollars each, payable in twenty years from the date of their issuance, to bear interest at the rate of five (5) per cent. per annum, payable semi-annually on the first day of January and July of each year, at a bank in the city of New York to be selected by the State Treasurer; *Provided*, that said bonds shall be redeemable at the option of the State of Idaho at any time after the expiration of ten years from the date of their issuance, and said bonds shall be plainly numbered from one (1) to forty-nine (49) consecutively. *Provided*, that the State Board of Land Commissioners is hereby authorized and directed to invest any and all moneys in the general school fund of the State in the bonds authorized by this Act, at their par value; the remainder of the issue to be negotiated by sale to the highest responsible bidder.

SEC. 2. The State Treasurer is hereby authorized, empowered and directed to cause to be printed or lithographed suitable bonds in proper form, with coupons attached, for the purpose of this Act. All such bonds shall be signed by the Secretary of State with his own proper name, affixing his official character, and shall be authenticated by the great seal of the State, and shall also be signed or endorsed by the Governor of the State with his own proper name, affixing his official character, and shall then be delivered by the Secretary of State to the State Auditor, who shall make and keep a register of such bonds, showing the number and amount of each bond, and then deliver the said bonds to the State Treasurer, and charge the State Treasurer on the books of the Auditor's office with the full amount of such bonds.

SEC. 3. At the time of issuing of said bonds under the provisions of this Act, the State Treasurer shall sign them with his own proper name, affixing his official character, and shall in like manner sign the coupons thereunto attached, and such signing shall bind the State. The coupons for the payment of interest shall be attached to said bonds in such manner that they may be taken off, without injuring or mutilating the bonds, and shall be severally numbered from one (1) to forty-nine (49), inclusive, each bearing the corresponding number of the bond to which it is attached.

The Treasurer shall keep a register of all the bonds issued by him, showing the date of issuance, and shall deliver said bonds, with the coupons attached, as aforesaid, to the purchaser or purchasers upon the receipt of the purchase money therefor; and the money received from the sale of said bonds shall be by said Treasurer placed in certain funds hereinafter named, as hereinafter provided, none of said bonds, however, shall be sold for less than their face or par value. The expense of printing or lithographing and procuring said bonds with coupons attached shall be paid out of the funds arising from the sale of the bonds, a proportionate amount being paid from each fund hereinafter provided.

SEC. 4. For the purpose of creating a fund to pay the interest coupons and the principal of said bonds, the State Treasurer is hereby empowered and directed, from and after the passage of this Act, to set apart one-half

of all moneys that shall be received by him on account of licenses of every kind and description collected under the revenue laws of the State, and the same shall constitute a separate and distinct fund, to be known as the State improvement fund. And the State Treasurer shall pay the interest on said bonds, when due, out of said fund, taking the coupons as his vouchers therefor. And after the expiration of ten (10) years from the issuance of any of said bonds, whenever there shall be five thousand (\$5000) dollars or more in said fund, provided for in this section, over and above the amount required for the payment of interest coupons due, or to become due within the next ensuing six months, the Treasurer shall use such surplus money in the redemption of said bonds according to the number and date of their issue, of which the Treasurer shall give notice by publication once in a week in some newspaper published in the county of Ada, and from the date of the last publication of such notice, the bonds proposed to be redeemed shall cease to draw interest; and if any such bonds shall not be presented within sixty days from the date of the last publication of such notice, the Treasurer shall apply the money for the redemption of bonds next in order of the number and date of their issue.

SEC. 5. If at any time there shall not be sufficient moneys in said State improvement fund to pay the interest coupons or the principal of such bonds when due, the State Treasurer shall pay the same out of the general fund of the State, and shall replace the amount so paid out of the fund last named whenever moneys derived from licenses shall be received.

SEC. 6. At any time prior to the time when the bonds provided in section one (1) of this Act shall become subject to redemption, as provided by this Act, the amount of money in the sinking fund provided for by section four (4) of this Act shall exceed the amount required for the payment of interest coupons of such bonds due, or to become due within the next ensuing twelve months, the State Treasurer shall use such surplus in payment of any warrant drawn upon him by the State Auditor, and presented for payment and not paid for want of money in the fund upon which they are drawn properly applicable thereto, and shall register and endorse such warrants, as provided by section two hundred and thirty-eight (238) of the Revised Statutes, and place the same, so endorsed, to the credit of the sinking fund aforesaid; and such warrants shall bear interest and be payable in due course as other outstanding warrants, and, when paid, the interest and principal thereof shall belong to the sinking fund aforesaid, and shall be in like manner reinvested until said bonds become redeemable as aforesaid.

SEC. 7. When the money arising from the sale of said improvement bonds is received by the State Treasurer, he shall notify the State Auditor of the amount of money so received, and the State Auditor shall thereupon credit the Treasurer's account with the amount of bonds sold and proceed to apportion the money so received to the funds following which are hereby created, to-wit: Fourteen thousand (\$14,000) dollars to the University improvement fund, and twenty-six thousand (\$26,000) dollars to the penitentiary improvement fund, and three thousand (\$3,000) dollars to the Soldiers' Home improvement fund, and six thousand (\$6,000) dollars to the capitol building improvement fund.

Should such bonds be sold for more than their face or par value, the

premium thereon shall be apportioned to the funds by this section created in proportional amounts.

SEC. 8. All moneys paid or to be paid into the funds above described (section 7), are hereby appropriated for the uses and purposes in this Act provided.

Fourteen thousand (\$14,000) dollars shall be paid out for expenses incurred in finishing and furnishing the State University of Idaho. Twenty-six thousand (\$26,000) dollars shall be paid out for expenses incurred in improving the Idaho State Penitentiary, and three thousand (\$3,000) dollars shall be paid out for expenses incurred in building and furnishing a hospital and improving the Soldier's Home, and six thousand (\$6,000) dollars shall be paid for expenses incurred in repairs and improving the capitol building.

SEC. 9. No contract or award or understanding for repairs or improvements for the different institutions mentioned in this Act shall be made or entered into by the various governing boards of the institutions herein mentioned, unless the same shall have been submitted to and approved by the chairman of the State Board of Examiners, and at least one of the other members of said Board of Examiners.

SEC. 10. Moneys in the University improvement fund, the penitentiary improvement fund, the Soldiers' Home improvement fund, and the capitol building improvement fund, shall be drawn therefrom only upon warrants issued by the State Auditor upon certificates signed by the secretary and president, or secretary and chairman, of the several Boards of Regents, or commissioners, or Trustees, of the different institutions, duly approved by the State Board of Examiners.

SEC. 11. This Act shall take effect and be in force from and after its passage, an emergency existing therefor.

Approved, March 9, 1899.

H. B. NO. 359.

AN ACT

TO PROVIDE FOR TAKING THE CENSUS OF THE DEAF AND BLIND CHILDREN OF SCHOOL AGE AND DEFINING WHO ARE DEAF AND BLIND.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. It is hereby made the duty of the census marshal of each school district in the State of Idaho, when he shall enumerate the children of school age in his district, to carefully ascertain what children in that district are deaf or blind as defined in section 2 of this Act, and he shall note the name, age, and sex of such child or children, also the name of parents or guardian or other person having the legal or actual charge of such child or children, and shall report the same to the county superintendent of public instruction, and said county superintendent of public instruction shall include these items in his annual report to the State Superintendent of Public Instruction.

SEC. 2. All children between the ages of six and twenty-four years, who are too deaf or too blind to be educated in our public schools shall be deemed deaf and blind for the purposes of this Act.

SEC. 3. Whereas an emergency exists, therefore this Act shall be in force from and after its passage.

Approved, March 13, 1899.

H. B. NO. 361.

AN ACT

FOR THE RELIEF OF ALEXANDER E. MAYHEW.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated for the relief of Alexander E. Mayhew, judge of the district court of the first judicial district of the State of Idaho, the sum of two hundred and three dollars and eighty cents (\$203.80).

SEC. 2. The Auditor is hereby authorized and required upon presentation of the proper vouchers, as required by law, to draw his warrant in favor of the said Alexander E. Mayhew for the said sum of two hundred and three dollars and eighty cents (\$203.80).

SEC. 3. Whereas an emergency exists, therefore this Act shall be in force from and after its passage.

Approved, March 15, 1899.

H. B. NO. 362.

AN ACT

TO PROVIDE FOR THE PAYMENT OF CLAIMS AGAINST THE STATE FOR SUPPLIES FURNISHED AND FOR SERVICES RENDERED DURING THE YEARS 1895, 1896, 1897, AND 1898 IN DEPARTMENTS OF THE STATE GOVERNMENT FOR WHICH INSUFFICIENT APPROPRIATIONS WERE MADE IN THE GENERAL APPROPRIATION BILL, APPROVED MARCH 8, 1897.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That the sum of (\$19,404.49) nineteen thousand four hundred and four dollars and forty-nine cents, is hereby appropriated for the payment of claims against the State for supplies furnished and for services rendered, during the years 1897 and 1898 in departments of the State government for which insufficient appropriations were made in the general appropriation bill, approved, March 8, 1897, which claims have been approved by the State Board of Examiners and certified to the Legislature for payment, said claims being named, or numbered and named, and of the amounts following to-wit:

No.

737	Boise Furniture Co.....	50
714	Boise City.....	59 84
713	Boise Ditch Co.....	75 00
712	Falk-Bloch Mer. Co.....	3 45
711	Capital Electric Light Co.....	48 30
710	Nye Galbraith Drug Co.....	2 10
709	Mrs. Jas. H. Hart.....	4 50
707	Thomas Popham.....	75 00
706	Rocky Mountain Bell Tel. Co.....	7 00
705	Coffin & Northrop Co.....	1 80
704	T. H. Calloway.....	60 00
703	Hot & Cold Water.....	20 25
702	Bowen & Rickets.....	7 00
701	M. H. Goodwin Lumber Co.....	9 35
700	John Popham.....	45 00
699	Loree & Franz Hardware Co.....	65
698	Rocky Mountain Bell Tel. Co.....	7 00
673	H. & C. Water Co.....	20 25
672	Rocky Mountain Bell Tel. Co.....	7 00
671	John F. Green.....	2 00

670	Fletcher Steen Co.	6 35
527	T. C. Calloway	60 00
526	Loree & Franz	6 05
525	Idaho Plumbing & Heating Co.	145 50
524	T. J. Derifield	75
523	Capital Electric Light Co.	31 26
522	James H. Hart	79 50
521	W. T. Popham	79 50
510	T. H. Calloway	26 50
509	W. T. Popham	41 40
508	J. H. Hart	40 50
506	Rocky Mountain Bell Tel. Co.	3 00
519	J. A. Myers	4 15
518	James A. Pinney	2 95
517	Falk Bloch Mer. Co.	2 25
516	Statesman Printing Co.	5 50
515	James A. Pinney	1 05
514	George J. Lewis	10 00
512	Sentinel Printing Co.	7 50
511	Sentinel Printing Co.	3 00
501	Sentinel Printing Co.	120 21
528	N. M. Ruick	400 00
674	J. H. Anderson	85 00
675	J. H. Anderson	14 85
724	Selden B. Kingsbury	500 00
716	Hays & Johnson	250 00
722	James D. Young	115 20
721	C. Bunting & Co.	805 03
725	G. Russell Hitt	33 00
726	Frank A. Fenn	250 00
	Statesman Printing Co.	3 50
	Pacific Express Co.	30
	James A. Pinney	11 25
	Statesman Printing Co.	9 50
	Frank Feltham	42 00
	Falk-Bloch Mer. Co.	2 65
	Boise Ice Co.	10 00
	Idaho Plumbing & Heating Co.	32 75
	Electric Light Co.	82 85
	Rocky Mountain Bell Tel. Co.	7 00
	Capital Printing Co.	150 00
	J. A. Myers	2 75
	Pacific Express Co.	1 80
	Capital Printing Co.	194 00
786	Wm. V. Helfrich	120 00
696	S. F. Taylor	262 20
719	B. F. Morris & S. L. McFarland	950 00
731	John E. Pincock	8 00
732	Fremont County Journal Co.	25 00
733	Lewiston Tribune	20 00
734	Chas. A. Leper	23 00
735	James McGrain	162 50

736	D. W. Hannah.....	171 25
750	Edward Smith.....	200 00
759	John B. Goode.....	50 00
760	Idaho County Free Press.....	40 00
761	Coeur d'Alene Press Pub. Co.....	40 00
762	Moscow Times Democrat.....	40 00
763	Idaho Recorder.....	40 00
764	Shoshone Journal.....	40 00
765	Preston Standard.....	40 00
766	Lewiston Tribune.....	40 00
767	Boise Sentinel.....	40 00
768	Owyhee Avalanche.....	40 00
769	Idaho State Tribune.....	40 00
770	Salubria Citizen.....	40 00
771	St. Anthony Standard.....	40 00
772	Elmore Bulletin.....	40 00
773	Challis Silver Messenger.....	40 00
774	Albion Times.....	40 00
775	Caldwell Record.....	40 00
776	Idaho World.....	40 00
777	Ketchum Keystone.....	40 00
778	Wood River News-Miner.....	50 00
779	Blackfoot News.....	40 00
780	Post Publishing Co.....	40 00
781	Pocatello Advance.....	40 00
782	Statesman Printing Co.....	135 00
785	H. Oakes.....	8 00
723	James H. Hawley.....	27 65
715	Statesman Printing Co.....	69 00
520	Sentinel Printing Co.....	20 00
507	Sentinel Printing Co.....	18 50
505	R. E. McFarland.....	14 65
504	L. & M. Alexander & Co.....	65 00
745	Times Democrat.....	455 05
744	Sentinel Printing Co.....	10 00
730	L. N. B. Anderson.....	109 65
729	L. N. B. Anderson.....	100 00
728	Lewiston Tribune.....	299 20
697	Utah School for Deaf.....	486 50
503	Sentinel Printing Co.....	13 00
757	Albert Jones.....	44 80
756	Jeff Gray.....	56 80
755	Alex. Gray.....	56 80
754	Henry Jones.....	41 80
753	J. B. Rice.....	50 80
752	Henry Harris.....	56 80
751	A. D. Norton.....	44 80
749	James W. Kinney.....	77 00
747	T. H. Calloway.....	60 00
742	J. A. Myers.....	1 80
741	James Popham.....	37 50
739	Mrs. Jas. H. Hart.....	4 50

738	W. T. Popham.....	75 00
	Times Democrat Printing Co.....	100 00
	Western Union Telegraph Co.....	4 74
	Lewiston Tribune Printing Co.....	3 50
	Owens & Swan.....	24 60
	Mrs. A. C. McFarland.....	20 50
	J. M. Friedman.....	41 60
	Stewart Bros.....	12 00
	Robert Shanks.....	70 00
	R. Warren.....	293 00
	Lincoln Hardware Co.....	1 50
	T. H. Powell.....	12 95
	A. P. Anderson.....	83 50
	G. P. Gates.....	1533 33
	E. Evelitt.....	510 00
	John Osborn.....	109 75
	C. Evelith.....	510 00
	Lewiston Tribune.....	160 00
	B. P. Howell.....	36 00
	Geo. J. Lewis.....	50 00
	Frank Herrmann.....	35 25
	W. G. Piper.....	100 00
	Washington School for defective youth.....	400 00
	Foster & Wakefield.....	500 00
	Theresa O'Farrell.....	2 66
	Hawley & Puckett.....	2025 00
	I. I. Lewis.....	119 45
	Wm. V. Helfrich.....	50 00
	George Chapman.....	6 00
	L. N. B. Anderson.....	516 65
	C. A. Sargent.....	4 55
	Frank Steunenberg.....	8 36
	Stockslager & Heard.....	750 00
384	R. A. Pierce.....	40 00
189	Provo Woolen Mills.....	186 50
187	Henry Reinemer.....	75
239	Milton G. Cage.....	23 75
190	Fletcher Steen Co.....	48 90
	D. W. Standrod.....	300 00
746	C. O. Stockslager.....	138 00
743	George H. Stewart.....	275 75
720	W. G. Piper.....	24 45
513	C. O. Stockslager.....	157 00
708	James H. Hart.....	75 00
740	James H. Hart.....	75 00
	Geo. S. Keyes.....	105 05

SEC. 3. The sum of \$1,200 is hereby appropriated out of any money in the treasury not otherwise appropriated to reimburse the subscribers to the Omaha Trans-Mississippi and International Exposition of 1898.

SEC. 4. The State Auditor is hereby authorized and required upon presentation of the proper vouchers, as required by law, to draw his warrant in favor of the person named in the certificate, the number or name of

which is hereinbefore stated, for the amount set opposite said number, or name.

SEC. 5. Whereas an emergency exists, therefore this Act shall be in force from and after its passage.

Approved, March 15, 1899.

H. B. NO. 363.

AN ACT

TO PROVIDE FOR THE ESTABLISHMENT OF PRIVATE PARKS FOR THE PROPOGATION AND PRESERVATION OF FISH AND GAME.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. Any person, association or corporation may establish, maintain or own a private park, lake or stream for fish or game, or both, on premises owned by him or it respectively, and to that end may employ means to preserve and propogate such fish and game, and it shall be a misdemeanor to trespass thereon.

SEC. 2. Whereas an emergency exists, therefore this Act shall be in force from and after its passage.

Approved, March 15, 1899.

H. B. NO. 364.

AN ACT

RELATING TO AD VALOREM TAXES FOR YEARS 1899 AND 1900, AND AMENDING AN ACT ENTITLED "AN ACT RELATING TO REVENUE; REPEALING SECTIONS 1124 AND 1462 OF THE REVISED STATUTES OF IDAHO; AMENDING SECTIONS 1410, 1411, 1426, 1428, 1429, 1430, 1451, 1452, 1453, 1475, 1482, 1483, 1485, 1500, 1501, 1515, 1518, 1523, 1524, 1525, 1530, 1532, 1536, 1547, 1548, 1553, 1554, 1567, 1573, SUBDIVISION ONE OF 1645, SECTION 1845, 1846, 1847, 1848, AND 2180 OF THE REVISED STATUTES OF IDAHO; AND ADDING TO CHAPTER V OF TITLE X OF THE POLITICAL CODE OF IDAHO, THE FOLLOWING SECTIONS, SECTIONS 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, AND 1496; AND ADDING TO CHAPTER IX OF TITLE X OF THE POLITICAL CODE OF IDAHO SECTIONS 1653 AND 1654; AND ADDING TO CHAPTER XI OF TITLE X OF POLITICAL CODE OF IDAHO SECTION 1712," APPROVED FEBRUARY 16, 1899; AND AMENDING SECTION 1410 THEREOF.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That section 1410 of the Revised Statutes of Idaho be amended to read as follows:

Section 1410. There is hereby levied, for State purposes, for the years 1899 and 1900, respectively, upon all property not exempted by law from taxation, an annual ad valorem tax of two hundred and forty-five thousand dollars which shall be paid by the several counties of this State in the proportion which their assessed valuation, as shown by their respective assessment rolls, bears for the year next preceding that in which said tax is to be paid, to the total assessed valuation of this State for the preceding year, and upon the same property the board of county commissioners of each county is also hereby authorized and empowered to levy annually a tax for county expenditure, not exceeding, inclusive of the amount required to be paid as State taxes, the sum of one hundred and and fifty cents on each one hundred dollars, and, if they deem necessary, a tax of twenty-five cents on each one hundred dollars, to be expended for the repairs and construction of bridges within the county, as the board of county commissioners may order and direct, and such additional and special taxes as are authorized by section 1411 of the Revised Statutes of Idaho as amended, or any other law of this State; *Provided*, however, that whenever the board of county commissioners levy any tax, such levy must be entered on the records of their proceedings, and their clerk must deliver a certified copy

thereof to the assessor, tax collector, auditor, and treasurer, each of whom must file said copy in his office.

SEC. 2. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved, March 13, 1899.

UNITED STATES OF AMERICA,
STATE OF IDAHO.

I, M. Patrie, Secretary of State, of State of Idaho, do hereby certify that the foregoing printed volume contains true and literal copies of all the Laws, Memorials and Resolutions passed by the Legislature of the State of Idaho, at the Fifth Session thereof, which convened on the 2d day of January, 1899, and adjourned on the 7th day of March, 1899, as appears from the enrolled Acts, Memorials and Resolutions now on file in this office, and that the same are published under the authority of the State of Idaho.



In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State. Done at Boise, the Capital, this 16th day of May, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States of America the one hundred and twenty-third.

A large, stylized cursive signature of M. Patrie, written in dark ink.

Secretary of State.

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ERRATA.

- Page 340—S. B. 20—Insert enacting clause.
Page 342—S. B. 20—Approved, Feb. 23, 1899.
Page 344—S. B. 23—Sec. 7, line 8, read “is being” instead of “has been.”
Page 344—S. B. 23—Sec. 7, line 14, strike out “And” beginning of line.
Page 345—S. B. 23—Insert Sec. 13, emergency clause.
Page 348—S. B. 26—Sec. 7, sub-division 3rd, read “permanently” for “permanent.”
Page 348—S. B. 26—Sec. 9, line 2, read “of the” for “of this” end of line.
 Sec. 9, line 11, read “proceedings” for “proceeding.”
Page 349—S. B. 26—Sec. 10, line 6, read “or by both” for “or both” at end of line
Page 352—S. B. 28—Sec. 5, line 1, read “tendered to him” for “tendered him” beginning of line.
Page 352—S. B. 38—Line 1, title, read “offices” for “office.”
 Line 2, title, read “Deputy State Sheep Inspector” for “Deputy Sheep Inspector.”
Page 354—S. B. 38—Sec. 13, line 1, strike out “deputy.”
Page 356—S. B. 38—Sec. 21, line 9, read “and not more than” for “or not more than.”
Page 357—S. B. 38—Sec. 22, line 8, insert “Dollars” after (500.00).
Page 358—S. B. 38—Sec. 28, line 3, read “and all persons” for “all persons.”
Page 373—S. B. 105—Sec. 7, strike out “by the Governor.”
Page 382—H. B. 183—Sec. 17, line 4, read “outlets to those” for “outlets of those.”
Page 384—H. B. 183—Sec. 26, line 9, read “shall be supported” for “shall he supported.”
Page 397—H. B. 228—Read “Filed” for “Approved.”
Page 405—H. B. 264—Sec. 2, read “on and off” for “on and of.”
Page 414—H. B. 266—Sec. 10, sub-division 1st, read “and in each division of the district.”
Page 429—H. B. 267—Sec 10, line 2, read “period of five years.”
Page 431—H. B. 267—Sec. 28, line 9, strike out “half.”
Page 434—H. B. 279—Sec. 7525, line 15, read “and for taking such examinations the mag-
istrate must be allowed”.
Page 436—H. B. 289—Line 3, read “posted in three” for “posted it three.”
Page 438—H. B. 298—Line 37, read “shall be the duty” for “shall be duty.”
Page 441—H. B. 313—Line 1, read “Feb. 14, 1899.”
 Sec. 2, line 2, read “February, 14, 1899.”
Page 443—H. B. 322—Read “Approved, March 13, 1899.”
Page 453—H. B. 347—Sec. 1, sub-division 2nd, line 2, read “aggregates” for “aggregate.”
Page 455—H. B. 348—Sec. 5, line 6, read “in a sum” for “in any sum.”

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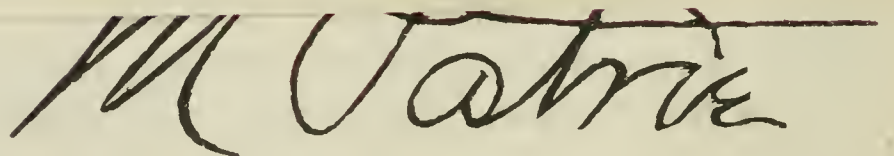
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SEC. 2. Whereas an emergency exists therefor, this Act shall take effect and be in force from and after its passage.

Approved, March 13, 1899.

A handwritten signature in dark ink, appearing to read "M. J. Vahrie". The signature is written in a cursive style with a horizontal line above it.

Secretary of State.

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